

In the opinion of Bryant Rabbino LLP, Bond Counsel, under existing statutes and court decisions and assuming continuing compliance by the Issuer, the Borrower and the School with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by the Issuer, the Borrower and the School described herein, (i) interest on the Series 2021 Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Series 2021 Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code. Bond Counsel is further of the opinion that, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision thereof, including The City of New York. See “CERTAIN TAX MATTERS” herein.



\$17,770,000
BUILD NYC RESOURCE CORPORATION
Revenue Bonds
(Academic Leadership Charter School Project),
Series 2021

Dated: Date of Issuance**Due: June 15, as shown on the inside front cover**

The above-referenced Build NYC Resource Corporation Revenue Bonds (Academic Leadership Charter School Project), Series 2021 (the “**Series 2021 Bonds**”) are special limited revenue obligations of Build NYC Resource Corporation (the “**Issuer**”) payable exclusively from the trust estate as described in this Official Statement. Undefined capitalized terms on this cover are defined in the text hereof or in APPENDIX D of this Official Statement.

The Series 2021 Bonds are special limited revenue obligations of the Issuer, payable as to principal, Sinking Fund Installments, Redemption Price and interest, from and secured in part by (i) certain unconditional loan payments to be made by the Borrower (as hereinafter defined) pursuant to the Loan Agreement, dated as of June 1, 2021, between the Issuer and Friends of Academic Leadership CS, LLC, a limited liability company organized and existing under the laws of the State of New York (the “**Borrower**”), (ii) a School Lease Agreement dated as of June 1, 2021, (the “**School Lease**”) between the Borrower and Academic Leadership Charter School, a New York not-for-profit education corporation (the “**School**”); (iii) a pledge of certain funds and accounts established under the Indenture of Trust, dated as of June 1, 2021, between the Issuer and The Bank of New York Mellon, New York, New York, as trustee (the “**Trustee**”), and (iv) mortgage liens on and security interests in the Borrower’s leasehold interest in the Land and the Borrower’s ownership interest in the New Facility (defined herein) pursuant to a Mortgage and Security Agreement (Building Loan), dated as of June 1, 2021, from the Borrower to the Issuer and the Trustee (as the same may hereafter be amended or supplemented, the “**Mortgage**”). The interests of the Issuer under the Mortgage will be assigned to the Trustee pursuant to the Assignment of Mortgage, dated as of June 1, 2021 (the “**Assignment of Mortgage**”) from the Issuer to the Trustee. Neither the State of New York nor any political subdivision thereof, including The City of New York, shall be obligated to pay the principal or Redemption Price of, Sinking Fund Installments for, or the interest on, the Series 2021 Bonds. Neither the faith and credit nor the taxing power of the State or any political subdivision thereof, including the City, is pledged to the payment of the Series 2021 Bonds. The Series 2021 Bonds will not be payable out of any funds of the Issuer other than those pledged therefor pursuant to the Indenture. The Series 2021 Bonds will not give rise to a pecuniary liability or charge against the credit or taxing powers of the State or any political subdivision thereof, including the City. No recourse will be had for the payment of the principal or Redemption Price of, Sinking Fund Installments for, or the interest on, the Series 2021 Bonds against any member, officer, director, employee or agent of the Issuer. The Issuer has no taxing power. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS” in this Official Statement.

Proceeds derived from the sale of the Series 2021 Bonds will be used by the Borrower for the purposes of funding the costs of: (a) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space with a maximum physical capacity for 600 students in grades 3 to 5 (collectively, the “**New Facility**”) on an approximately 0.29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454 (the “**Land**”); and (b) the costs of issuing the Series 2021 Bonds (collectively, the “**Project**”). The New Facility will be owned by the Borrower and leased by the Borrower to the School pursuant to the School Lease dated as of June 1, 2021 which School Lease Rental Payments are payable at the same times as specified for payment of amounts due and payable under the Loan Agreement by the Borrower to the Issuer. See “THE PROJECT AND PLAN OF FINANCE” in this Official Statement.

The Series 2021 Bonds will be issued as fully registered bonds initially issued in the minimum authorized denomination of \$5,000 or any integral multiple of \$5,000 in excess thereof in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York. Purchases of the Series 2021 Bonds will be made in book-entry form only. Purchasers of beneficial interests will not receive physical certificates. The Series 2021 Bonds are subject to optional and mandatory redemption as described in this Official Statement. Interest on the Series 2021 Bonds will be payable on June 15 and December 15 of each year, commencing December 15, 2021. See “THE SERIES 2021 BONDS” in this Official Statement. **An investment in the Series 2021 Bonds is subject to certain risks. See “RISK FACTORS” in this Official Statement. Investors must read the entire Official Statement, including the Appendices hereto.**

SEE THE INSIDE FRONT COVER FOR THE MATURITY SCHEDULES FOR THE SERIES 2021 BONDS

The Series 2021 Bonds are offered, subject to prior sale, when, as and if accepted by Robert W. Baird & Co. Incorporated and subject to an opinion as to the validity of the Series 2021 Bonds and the tax-exempt status of the Series 2021 Bonds by Bryant Rabbino LLP, New York, New York, Bond Counsel; the approval of certain legal matters for the Issuer by its General Counsel, for the School and the Borrower by their counsel, Harris Beach PLLC, Uniondale, New York, for the Trustee by its special counsel Paparone Law, PLLC, New York, New York, and for the Underwriter by its counsel, Zarwin Baum DeVito Kaplan Schaefer Toddy P.C., Philadelphia, Pennsylvania, and certain other conditions. It is expected that delivery of the Series 2021 Bonds will be made on or about June 16, 2021 through the facilities of DTC.

MATURITY SCHEDULE

\$17,770,000
Build NYC Resource Corporation
Revenue Bonds
(Academic Leadership Charter School Project),
Series 2021

| <u>Maturity (June 15)</u> | <u>Principal Amount</u> | <u>Coupon</u> | <u>Price</u> | <u>Yield</u> | <u>CUSIP¹</u> |
|----------------------------------|--------------------------------|----------------------|---------------------|---------------------|---------------------------------|
| 2022 | \$885,000 | 4.0% | 103.456 | 0.52% | 12008ERD0 |
| 2023 | 920,000 | 4.0% | 106.781 | 0.58% | 12008ERE8 |
| 2024 | 960,000 | 4.0% | 109.739 | 0.71% | 12008ERF5 |
| 2025 | 1,000,000 | 4.0% | 112.353 | 0.85% | 12008ERG3 |
| 2026 | 1,040,000 | 4.0% | 114.430 | 1.03% | 12008ERH1 |
| 2027 | 1,080,000 | 4.0% | 116.281 | 1.18% | 12008ERJ7 |
| 2028 | 1,125,000 | 4.0% | 117.856 | 1.32% | 12008ERK4 |
| 2029 | 1,170,000 | 4.0% | 116.909* | 1.45% | 12008ERL2 |
| 2030 | 1,215,000 | 4.0% | 116.043* | 1.57% | 12008ERM0 |
| 2031 | 1,265,000 | 4.0% | 115.541* | 1.64% | 12008ERN8 |

\$7,110,000 4.0% TERM BOND DUE JUNE 15, 2036; YIELD: 1.75%; PRICE: 114.757%*; CUSIP: 12008ERP3

*Priced to the first optional redemption date of June 15, 2028.

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**BUILD NYC RESOURCE CORPORATION
REVENUE BONDS
(ACADEMIC LEADERSHIP CHARTER SCHOOL PROJECT)**

Issuer

Build NYC Resource Corporation

Bond Counsel to the Issuer

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New York, New York

Borrower

Friends of Academic Leadership CS, LLC
New York, New York

School

Academic Leadership Charter School
New York, New York

Borrower's and School's Counsel

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Uniondale, New York

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Philadelphia, Pennsylvania

Trustee, Bond Registrar and Paying Agent

The Bank of New York Mellon
New York, New York

Trustee's Counsel

Paparone Law PLLC
New York, New York

Continuing Disclosure Agent

School Improvement Partnership
Philadelphia, Pennsylvania

No person has been authorized by the Issuer, the Underwriter, the Borrower or the School to give any information regarding the Series 2021 Bonds, the Borrower, the School, the Project, the offering contained herein and related matters or to make any representations other than those contained in this Official Statement and if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which it is unlawful for any person to make such offer or solicitation. The information contained in this Official Statement has been furnished by or on behalf of the Issuer, the Borrower and the School and other sources which are believed to be reliable. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the parties referred to above since the date hereof.

The Underwriter has provided the following sentence for inclusion in this Official Statement. The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, the Underwriter's responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Neither the Issuer nor any of its members, directors, officers, agents, employees or representatives has reviewed this Official Statement or investigated the statements or representations contained herein, except for those statements relating to the Issuer set forth under the captions "THE ISSUER" and "ABSENCE OF MATERIAL LITIGATION—The Issuer." Except with respect to the information contained under such captions, neither the Issuer nor any of its members, directors, officers, agents, employees, or representatives makes any representation as to the completeness, sufficiency and truthfulness of the statements set forth in this Official Statement. None of the members, directors, officers, agents, employees, or representatives of the Issuer nor any other person executing the Series 2021 Bonds are subject to personal liability by reason of the issuance of the Series 2021 Bonds. Other than the information under the captions "THE ISSUER" and "ABSENCE OF MATERIAL LITIGATION—The Issuer," the Issuer assumes no responsibility for this Official Statement and has not reviewed or undertaken to verify any information contained herein.

The Trustee has not participated in the preparation of this Official Statement or any other disclosure documents relating to the Series 2021 Bonds. Except for information under the heading "THE TRUSTEE," the Trustee has or assumes no responsibility as to the accuracy or completeness of any information contained in this Official Statement or any other such disclosure documents.

References in this Official Statement to New York law, the Series 2021 Bonds, the Indenture, the Loan Agreement, the Building Loan Agreement, the Custody Agreement, the Covenant Agreement, the School Lease, the Mortgage, the Assignment of Mortgage, the Continuing Disclosure Agreement, and other documents do not purport to be complete. Potential investors should refer to such statutes and documents for full and complete details of their provisions. Copies of such documents are on file with the Trustee and the School.

THE SERIES 2021 BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT, AND THE INDENTURE HAS NOT BEEN QUALIFIED UNDER THE TRUST INDENTURE ACT OF 1939, AS AMENDED, IN RELIANCE UPON EXEMPTIONS CONTAINED IN SUCH ACTS. THE REGISTRATION OR QUALIFICATION OF THE SERIES 2021 BONDS IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF LAWS OF THE STATES IN WHICH SERIES 2021 BONDS HAVE BEEN REGISTERED OR QUALIFIED AND THE EXEMPTION FROM REGISTRATION OR QUALIFICATION IN OTHER STATES CANNOT BE REGARDED AS A RECOMMENDATION THEREOF. NEITHER THESE STATES NOR ANY OF THEIR AGENCIES

HAVE PASSED UPON THE MERITS OF THE SERIES 2021 BONDS OR THE ACCURACY OR COMPLETENESS OF THIS OFFICIAL STATEMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

THIS OFFICIAL STATEMENT, INCLUDING THE APPENDICES HERETO, CONTAINS STATEMENTS WHICH SHOULD BE CONSIDERED “FORWARD- LOOKING STATEMENTS,” MEANING THEY REFER TO POSSIBLE FUTURE EVENTS OR CONDITIONS. SUCH STATEMENTS ARE GENERALLY IDENTIFIABLE BY THE WORDS SUCH AS “PLAN,” “EXPECT,” “ESTIMATE,” “BUDGET,” OR SIMILAR WORDS. THE BUDGET PROJECTION CONTAINED IN APPENDIX B ATTACHED TO THIS OFFICIAL STATEMENT IS NOT A HISTORICAL STATEMENT OF FINANCIAL PERFORMANCE BUT IS A FORWARD-LOOKING PROJECTION OF FUTURE, PROJECTED FINANCIAL PERFORMANCE. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS OR IN THE BUDGET PROJECTION INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES, AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE, OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS OR IN THE BUDGET PROJECTION. THE SCHOOL DOES NOT EXPECT OR INTEND TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS OR TO THE BUDGET PROJECTION IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS OR FORECASTS ARE BASED, OCCUR.

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SUMMARY INFORMATION

The following is a summary of certain information contained in this Official Statement. The summary is not comprehensive or complete and is qualified in its entirety by reference to the complete Official Statement (including the Appendices hereto). This Official Statement speaks only as of the date shown herein, and the information herein is subject to change. Undefined capitalized terms used below are defined in APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE hereto or elsewhere in this Official Statement.

Issuer

Build NYC Resource Corporation (the “**Issuer**”) is a not-for-profit local development corporation created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “**Act**”) and is authorized by the Act to issue the Series 2021 Bonds. See “THE ISSUER” in this Official Statement.

Borrower

Friends of Academic Leadership CS, LLC (the “**Borrower**”) is a New York limited liability company, the sole member of which is Academic Leadership Charter School, which is a New York not-for-profit corporation formed for the sole purpose of furthering the educational and charitable purposes of the Academic Leadership Charter School, a New York not-for-profit education corporation (the “**School**”). See “THE BORROWER” and “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL” in this Official Statement.

School

The School is a New York not-for-profit education corporation organized under Article 56 of the New York Education Law, as amended (the “**Charter Schools Act**”), and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”). See “THE SCHOOL” and “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL” in this Official Statement. See also “CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK” and “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.

Series 2021 Bonds

The Issuer is issuing its Revenue Bonds (Academic Leadership Charter School Project), Series 2021 (the “**Series 2021 Bonds**”), in the principal amount of \$17,770,000 pursuant to an Indenture of Trust, dated as of June 1, 2021 (the “**Indenture**”), between the Issuer and The Bank of New York Mellon, as trustee (the “**Trustee**”). The Series 2021 Bonds will be issued in denominations of \$5,000 or any integral multiple of \$5,000 in excess thereof (“**Authorized Denominations**”). See “THE SERIES 2021 BONDS” in this Official Statement.

Plan of Finance and Use of Proceeds

The Issuer will loan the proceeds derived from the sale of the Series 2021 Bonds to the Borrower pursuant to the terms of a Loan Agreement, dated as of June 1, 2021 (the “**Loan Agreement**”), by and between the Issuer and the Borrower. Proceeds of the Series 2021 Bonds will be used by the Borrower for the purposes of funding the costs of the Project. The New Facility will be owned by the Borrower and pursuant to a lease-lease back structure leased by the Borrower to the School for use as a public charter

school for students in grades 3 through 5 pursuant to a School Lease Agreement, dated as of June 1, 2021 (the “**School Lease**”). See “THE PROJECT AND PLAN OF FINANCE,” “SOURCES AND USES OF FUNDS” and “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL” in this Official Statement.

Security for the Series 2021 Bonds

Pursuant to the Indenture, the Series 2021 Bonds will be secured by and payable from an assignment and pledge by the Issuer of (i) all money held in the Funds and Accounts established under the Indenture (but excluding funds in the Repair and Replacement Fund and in the Rebate Fund), (ii) the right, title and interest of the Issuer in the Loan Agreement (except for the Issuer’s Reserved Rights), and (iii) Loan payments due from the Borrower under the Loan Agreement and the Promissory Notes.

The School will lease the New Facility from the Borrower pursuant to the School Lease. The amounts payable by the School under the School Lease (the “**School Lease Rental Payments**”) will be in amounts totaling not less than the debt service on the Series 2021 Bonds as the same become due and payable, but without acceleration. The Borrower will assign the School Lease Rental Payments to the Trustee pursuant to the Mortgage described herein with the consent of the School.

The Charter Schools Act prohibits charter schools organized under the laws of the State of New York from pledging or assigning Education Aid, Facilities Access Payments, and other amounts payable by the New York State Department of Education (the “**Department of Education**”) to any party. Therefore, the School is prohibited from pledging Education Aid to the Borrower in connection with the construction, acquisition, reconstruction, rehabilitation, or improvement of the New Facility. In connection with the issuance of the Series 2021 Bonds, the School, The Bank of New York Mellon (the “**Custodian**”) and the Trustee will enter into the Custody Agreement anticipated to be dated as of June 1, 2021 (the “**Custody Agreement**”) pursuant to which the School will cause payments of Education Aid due to the School to be delivered to the Custodian, and the Custodian will transfer certain portions of such moneys, in amounts equal to debt service payments and other amounts due in connection with the Series 2021 Bonds to the Trustee for deposit under the Indenture on account of School Lease payments owed by the School to the Borrower under the School Lease, all as set forth in the Indenture.

The Series 2021 Bonds will also be secured by mortgage liens on and security interests in the Borrower’s leasehold interest in the Land and the Borrower’s ownership interest in the New Facility pursuant to a Mortgage and Security Agreement (Building Loan) dated as of June 1, 2021, and from the Borrower to the Issuer and the Trustee (as may hereafter be amended or supplemented, the “**Mortgage**”). The Issuer’s interest in the Mortgage will be assigned to the Trustee pursuant to the Assignment of Mortgage (the “Assignment of Mortgage”) dated as of June 1, 2021 from the Issuer to the Trustee. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS” in this Official Statement.

Special, Limited Obligations

THE SERIES 2021 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, SINKING FUND INSTALLMENTS, REDEMPTION PRICE AND INTEREST SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE OF NEW YORK (THE “**STATE**”) NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY OF NEW YORK (THE “**CITY**”) SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY

POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2021 BONDS. THE SERIES 2021 BONDS WILL NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2021 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE OR AGENT OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

Risk Factors

Purchase of the Series 2021 Bonds involves a degree of risk. A prospective purchaser of the Series 2021 Bonds is advised to read this entire Official Statement including the Appendices attached hereto in their entirety, particularly the section entitled “RISK FACTORS” in this Official Statement, for a discussion of certain risk factors, which should be considered in connection with an investment in the Series 2021 Bonds.

Optional and Mandatory Redemption

See “THE SERIES 2021 BONDS—Redemption of Series 2021 Bonds” in this Official Statement.

Exchange and Transfer

While the Series 2021 Bonds remain in book-entry only form, transfer of ownership by Beneficial Owners may be made as described in “THE SERIES 2021 BONDS” and “APPENDIX G—BOOK-ENTRY ONLY SYSTEM” in this Official Statement.

Payment

Interest accrues on the Series 2021 Bonds at the rates set forth on the inside front cover of this Official Statement from their date of issuance (with interest on the Series 2021 Bonds accruing as to each principal portion on the related draw-down date) and is payable on June 15 and December 15 of each year, commencing December 15, 2021 (each an “**Interest Payment Date**”). The Series 2021 Bonds mature as set forth on the inside front cover of this Official Statement. Interest on and the principal of the Series 2021 Bonds is payable as described under the heading “THE SERIES 2021 BONDS” in this Official Statement.

Trustee, Bond Registrar and Paying Agent

The Bank of New York Mellon in New York, New York, is acting as Trustee, Bond Registrar and Paying Agent. See “THE TRUSTEE” in this Official Statement.

Form

The Series 2021 Bonds will be registered under a book-entry system in the name of The Depository Trust Company (“**DTC**”) or its nominees. See “THE SERIES 2021 BONDS” in this Official Statement.

Tax Status

In the opinion of Bryant Rabbino LLP, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance by the Issuer, the Borrower and the School with certain tax covenants described herein, and the accuracy and completeness of certain representations and certifications made by the Issuer, the Borrower and the School described herein (i) interest on the Series 2021 Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Series 2021 Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code.

In addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision thereof.

See “CERTAIN TAX MATTERS” and “APPENDIX E—FORM OF BOND COUNSEL OPINION” in this Official Statement.

Continuing Disclosure Agreement

Pursuant to the requirements of Securities and Exchange Commission Rule 15c2-12 (17 CFR Part 240, §240.15c2-12) (the “Rule”), the Borrower and the School have agreed for the benefit of the Registered Owners and Beneficial Owners of the Series 2021 Bonds to provide certain financial information, other operating data and notices of material events pursuant to the Continuing Disclosure Agreement dated as of June 1, 2021, with School Improvement Partnership as Continuing Disclosure Agent. Neither the Borrower nor the School has been subject to any prior continuing disclosure undertaking under the Rule. See “CONTINUING DISCLOSURE,” and “APPENDIX F—FORM OF CONTINUING DISCLOSURE AGREEMENT” in this Official Statement.

Rating

S&P Global Ratings has assigned to the Series 2021 Bonds a rating of “BBB-”. An explanation of the significance of the rating may only be obtained from the rating agency. Generally, rating agencies base their ratings on information and materials furnished to them and other investigations, studies, and assumptions they deem appropriate. The ratings are not recommendations to buy, sell or hold the Series 2021 Bonds. There can be no assurance that the ratings will continue for any period of time or that they will not be revised or withdrawn entirely by the rating agency, if in its judgment, circumstances so warrant. Any revision or withdrawal of a rating may have an effect on the marketability and/or market price of the Series 2021 Bonds.

Delivery Information

The Series 2021 Bonds are offered when, as, and if issued by the Issuer and accepted by the Underwriter, subject to prior sale and the approving legal opinion of Bond Counsel and certain other conditions. It is expected that delivery of the Series 2021 Bonds will be made on or about June 16, 2021, through the facilities of DTC in New York, New York, against payment therefor.

Bond Counsel and Other Counsels; Underwriter

Bryant Rabbino LLP, New York, New York, is acting as Bond Counsel to the Issuer. Certain legal matters will be passed upon for the Borrower and the School by their counsel, Harris Beach PLLC, Uniondale, New York. Certain legal matters will be passed upon for the Trustee by its special counsel,

Paparone PLLC, New York, New York and for the Underwriter by its counsel, Zarwin Baum DeVito Kaplan Schaer Toddy P.C., Philadelphia, Pennsylvania. Robert W. Baird & Co. Incorporated, Denver, Colorado will serve as the Underwriter for the Series 2021 Bonds. See “UNDERWRITING” in this Official Statement.

Additional Information

The summaries of or references to constitutional provisions, statutes, resolutions, agreements, contracts, financial statements, reports, publications and other documents or compilations of data or information set forth in this Official Statement do not purport to be complete statements of the provisions of the items summarized or referred to and are qualified in their entirety by the actual provisions of such items, copies of which are either publicly available or available upon request and the payment of a reasonable copying, mailing and handling charge from the Underwriter, 210 University Boulevard, Suite 460, Denver, Colorado 80206 or the Trustee, 240 Greenwich Street, Floor 7W, New York, New York 10286, Attention: Corporate Trust Administration.

Audited Financial Statements

The audited financial statements of the School for the fiscal years ended June 30, 2020, are included in this Official Statement as APPENDIX C. The financial statements in APPENDIX C were audited by NCheng LLP, Accountants and Advisors. See “AUDITED FINANCIAL STATEMENTS OF THE SCHOOL” and “APPENDIX C—AUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2020, (INCLUDING JUNE 30, 2019, COMPARATIVE INFORMATION)” in this Official Statement. The financial statements for the fiscal year ended June 30, 2020 are the most recent audited financial statements available for the School.

Budget Projection

The Budget Projection (the “**Budget Projection**”) attached hereto in APPENDIX B is a projection of the future financial performance of the School based upon certain assumptions made by the School and contained therein. NO ASSURANCES CAN BE GIVEN THAT THE OPERATIONS OF THE SCHOOL WILL EQUAL OR EXCEED THE PROJECTED FUTURE FINANCIAL PERFORMANCE SET FORTH IN THE BUDGET PROJECTION. The Budget Projection is for the five fiscal years of the School ending June 30, 2021, through June 30, 2025.

THE BORROWER AND THE SCHOOL HAVE PROVIDED THE INFORMATION SET FORTH IN APPENDIX B AND THE FORM OF THE SCHOOL LEASE IN APPENDIX D, AND NEITHER THE ISSUER NOR THE UNDERWRITER MAKE ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

OFFICIAL STATEMENT

\$17,770,000
BUILD NYC RESOURCE CORPORATION
Revenue Bonds
(Academic Leadership Charter School Project),
Series 2021

INTRODUCTORY STATEMENT

The following is a brief introduction as to certain matters discussed elsewhere in this Official Statement and is qualified in its entirety as to such matters by such discussion and the text of the actual documents described or referenced. Capitalized terms not defined herein have the meanings assigned in APPENDIX D or in any other document with respect to which the term is used. Definitions contained in the text hereof are for ease of reference only and are qualified in their entirety by the definitions in APPENDIX D or the documents with respect to which such terms relate. The Appendices to this Official Statement are an integral part of this Official Statement and each potential investor should review the Appendices in their entirety.

General

Build NYC Resource Corporation, a not-for-profit local development corporation created pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “**Issuer**”), will issue its Revenue Bonds (Academic Leadership Charter School Project), Series 2021 in the aggregate principal amount of \$17,770,000 (the “**Series 2021 Bonds**”) pursuant to a resolution adopted by the Issuer on July 16, 2019, and an Indenture of Trust, dated as of June 1, 2021 (the “**Indenture**”), between the Issuer and The Bank of New York Mellon, as trustee (the “**Trustee**”). The Issuer will loan the proceeds of the Series 2021 Bonds (the “**Loan**”) to Friends of Academic Leadership CS, LLC, a limited liability company organized and existing under the laws of the State of New York (the “**Borrower**”), whose sole member is Academic Leadership Charter School, a New York not-for-profit corporation (the “**School**”) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), pursuant to a Loan Agreement, dated as of June 1, 2021 (the “**Loan Agreement**”), between the Issuer and the Borrower. The Borrower is a disregarded entity of the School for federal tax purposes. See “APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Loan Agreement” in this Official Statement.

Proceeds of the Series 2021 Bonds will be used by the Borrower for the purposes of funding the costs of (a) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space for students in grades 3 to 5 (collectively, the “**New Facility**”) located on an approximately 0.29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454 (the “**Land**”); and (b) the costs of issuing the Series 2021 Bonds (collectively, the “**Project**”). The New Facility will be owned by the Borrower and leased by the Borrower to the School for use as a public charter school for students in grades 3 through 5 pursuant to a School Lease Agreement, dated as of June 1, 2021 (the “**School Lease**”). See “THE PROJECT AND PLAN OF FINANCE,” “SOURCES AND USES OF FUNDS” and “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL” in this Official Statement.

The School will lease the New Facility from the Borrower pursuant to the School Lease. The amounts payable by the School under the School Lease (the “**School Lease Rental Payments**”) will be in amounts totaling not less than the debt service on the Series 2021 Bonds as the same become due and

payable, but without acceleration. The Borrower will assign the School Lease Rental Payments to the Trustee pursuant to Mortgage with the consent of the School.

The Charter Schools Act prohibits charter schools organized under the laws of the State of New York from pledging or assigning Education Aid, Facilities Access Payments, and other amounts payable by the New York State Department of Education (the “**Department of Education**”) to any party. Therefore, the School is prohibited from pledging Education Aid to the Borrower in connection with the construction, acquisition, reconstruction, rehabilitation, or improvement of the New Facility. In connection with the issuance of the Series 2021 Bonds, the School, The Bank of New York Mellon (the “**Custodian**”) and the Trustee will enter into the Custody Agreement anticipated to be dated as of June 1, 2021 (the “**Custody Agreement**”) pursuant to which the School will cause payments of Education Aid due to the School to be delivered to the Custodian, and the Custodian will transfer certain portions of such moneys, in amounts equal to debt service payments and other amounts due in connection with the Series 2021 Bonds to the Trustee for deposit under the Indenture on account of School Lease Rental Payments owed by the School to the Borrower under the School Lease, all as set forth in the Indenture.

Loan of Series 2021 Bond Proceeds; Mortgage and Other Security

Proceeds of the Series 2021 Bonds will be loaned by the Issuer to the Borrower pursuant to the Loan Agreement, and the Series 2021 Bonds will be payable primarily from and secured by a pledge of payments to be made by the Borrower (the “**Loan Payments**”) under the Loan Agreement and one certain Promissory Note (with respect to the Series 2021 Bonds) from the Borrower to the Issuer, and concurrently assigned by the Issuer to the Trustee (collectively, the “**Promissory Notes**”), which are required to be sufficient to pay when due the scheduled principal of, Sinking Fund Installments for, and interest on the Series 2021 Bonds and any Additional Bonds (collectively, the “**Bonds**”). The Borrower will also enter into a Building Loan Agreement dated as of June 1, 2021 (the “**Building Loan Agreement**”) among the Issuer, the Trustee and the Borrower relating to direct costs of construction of the New Facility. The Series 2021 Bonds will also be secured by mortgage liens on and security interests in the Borrower’s leasehold interest in the Land and the Borrower’s ownership interest in the New Facility pursuant to a Mortgage and Security Agreement (Building Loan), dated as of June 1, 2021, from the Borrower to the Issuer and the Trustee (as may hereafter be amended or supplemented, the “**Mortgage**”). The Issuer’s interest in the Mortgage will be assigned to the Trustee pursuant to the Assignment of Mortgage (the “Assignment of Mortgage”) dated as of June 1, 2021 from the Issuer to the Trustee. See “APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE” in this Official Statement.

Pursuant to the Indenture, the Issuer will pledge to the Trustee, for the benefit of the holders of the Series 2021 Bonds, all of its interest in the Promissory Notes and substantially all of its right, title and interest in and to the Loan Agreement and the amounts payable thereunder (other than the Issuer’s Reserved Rights) to secure payment of the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the Series 2021 Bonds. The obligation of the Borrower to make Loan Payments under the Loan Agreement and the Promissory Notes is an absolute and unconditional obligation of the Borrower. However, the Borrower will not have any other sources of revenue to make its Loan Payments other than the School Lease Rental Payments received from the School under the School Lease, and the ability of the Borrower to generate additional revenues is limited in the event that the Education Aid payments and Facilities Access Payments (as defined herein) received by the School are not sufficient to make the required payments of School Lease Rental Payments under the School Lease. See “SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS” in this Official Statement.

Ground Lease

The Borrower will obtain on or prior to the Closing Date a leasehold interest in and to the Land from the School pursuant to the Ground Lease. The term of the Ground Lease shall be not less than 15 years from its commencement date. The Ground Lease may not be terminated or amended without the consent of the Issuer and the Trustee.

School Lease

Using proceeds of the Series 2021 Bonds and \$19.5 million equity contribution from the School, the Borrower will construct the New Facility on the Land and lease the Land and New Facility to the School pursuant to the School Lease. Upon completion of the New Facility, the School will operate grades 3 to 5 at the New Facility. School Lease Rental Payments payable to the Borrower by the School under the School Lease will be sufficient to pay regularly scheduled Loan Payments under the Loan Agreement, but not in the event of any acceleration of the Series 2021 Bonds. The initial term of the School Lease is equal to 15 years. The School Lease is a triple net lease, and the School is to pay all amounts owed in connection with the operation of the New Facility, including, but not limited to (i) real estate taxes, if any, (ii) property, casualty and liability insurance, (iii) utilities, (iv) water/sewer charges, and (v) all maintenance, cleaning and repairs (structural and non-structural of any nature whatsoever) as additional rent. Pursuant to the Mortgage, as security for the Series 2021 Bonds, the Borrower will assign to the Trustee all the Borrower's interest in and to the Mortgaged Property, including all of its right, title and interest in all rents, income, receipts, revenue and profits arising from the School Lease. The Borrower shall direct the School to direct the Custodian to pay all amounts of School Lease Rental Payments directly to the Trustee for deposit in the appropriate accounts of the Bond Fund established under the Indenture as required by the terms of the Custody Agreement.

Continuing Disclosure

The Borrower and the School will agree in the Continuing Disclosure Agreement with School Improvement Partnership as Continuing Disclosure Agent to provide certain periodic quarterly and annual financial reports and notices of certain other events with respect to the Series 2021 Bonds. See "CONTINUING DISCLOSURE" in this Official Statement.

Bondholders' Risks

Certain risks associated with an investment in the Series 2021 Bonds are discussed under "RISK FACTORS" in this Official Statement. Other risks may exist which are not discussed within "RISK FACTORS".

Miscellaneous

This Official Statement (including the Appendices hereto) contains descriptions of, among other matters, the Indenture, the Loan Agreement, the Building Loan Agreement, the Mortgage, the Assignment of Mortgage, the School Lease, the Custody Agreement, the Continuing Disclosure Agreement, the Issuer, the New Facility, the Project, the Borrower, the School, and the Series 2021 Bonds. Such descriptions and information do not purport to be comprehensive or definitive. All references to documents described herein are qualified in their entirety by reference to such documents, copies of which are available for inspection at the designated corporate trust office of the Trustee.

THE ISSUER

The Issuer is a not-for-profit local development corporation organized pursuant to Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the “**State**”) at the direction of the Mayor of The City of New York (the “**City**”). The Issuer is authorized by the Not-For-Profit Corporation Law of the State and the Issuer’s Certificate of Incorporation to promote community and economic development, and the creation of jobs in the non-profit and profit sectors for residents of the City by developing and providing programs for not-for-profit borrowers, manufacturing and industrial businesses and other entities to access low interest tax-exempt and non-tax-exempt financing for their eligible projects.

The Issuer has offered and plans to offer other obligations from time to time to finance projects for other not-for-profit borrowers and, under certain circumstances, manufacturing, and industrial businesses, with respect to facilities located in the City. Such obligations have been and will be issued pursuant to and secured by instruments separate and apart from the Indenture.

The Issuer has not prepared or assisted in the preparation of this Official Statement, except for statements under the sections captioned “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION—The Issuer” and, except as aforesaid, the Issuer is not responsible for any statements made in this Official Statement. Except for the execution and delivery of documents required to affect the issuance of the Series 2021 Bonds, the Issuer has not otherwise assisted in the public offer, sale or distribution of the Series 2021 Bonds. Accordingly, except as aforesaid, the Issuer disclaims responsibility for the disclosures set forth in this Official Statement or otherwise made in connection with the offer, sale and distribution of the Series 2021 Bonds.

The Series 2021 Bonds are special limited revenue obligations of the Issuer payable solely from the payments made by the Borrower under the Loan Agreement and the Promissory Notes and from the Trust Estate as described in the Indenture. The Issuer has no taxing power. Neither the Issuer nor its members, directors, officers, agents, employees, or representatives are personally liable with respect to the Series 2021 Bonds. Accordingly, no financial information with respect to the Issuer or its members, directors, officers, agents, employees, or representatives has been included in this Official Statement.

THE BORROWER

The Borrower is a limited liability company whose sole member is the School. The School is a New York not-for-profit corporation and an organization described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to “unrelated business taxable income” within the meaning of Section 512(a) of the Code) and which is not a “private foundation” as defined in Section 509(a) of the Code. The Borrower is a disregarded entity of the School for federal tax purposes.

THE SCHOOL

The School is a not-for-profit education corporation incorporated under Article 56 of the New York Education Law and operates pursuant to a charter agreement with the SUNY Charter Schools Institute (the “**Authorizer**”) for and on behalf of the Education Department of the State of New York.

The School is an organization described in Section 501(c)(3) of the Code which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to “unrelated business taxable income” within the meaning of Section 512(a) of the Code) and which is not a “private foundation” as defined in Section 509(a) of the Code. The School operates as a New York not-for-profit education corporation and as such is governed by the law applicable to such entities and its Charter and bylaws. The

School's bylaws provide that the School is managed and controlled by a Board of Trustees. For more information with respect to the School and its history and operations, see "APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL" in this Official Statement. The School will have no obligations under the Loan Agreement or under the Promissory Notes to make Loan Payments under the Loan Agreement or pay debt service on the Series 2021 Bonds.

THE PROJECT AND PLAN OF FINANCE

Use of Proceeds of the Series 2021 Bonds. Proceeds of the Series 2021 Bonds will be used by the Borrower for the purposes of funding the costs of: (a) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space for students in grades 3 to 5 (collectively, the "**New Facility**") on an approximately 0.29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454 (**the "Land"**); and (b) the costs of issuing the Series 2021 Bonds (collectively, the "**Project**"). The New Facility will be owned by the Borrower and leased by the Borrower to the School for use as a public charter school for students in grades 3 through 5 pursuant to the School Lease.

Acquisition of the Land and construction of the Project. In March 2016, the School purchased the Land for a purchase price equal to \$3.3 million. Prior to Closing, the School will lease the Land to the Borrower pursuant to the Ground Lease dated as of June 1, 2021. The Borrower will sublease the Land and the New Facility to the School pursuant to the School Lease.

See "APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL—PLAN OF FINANCE AND THE NEW FACILITY—The New Facility" in this Official Statement.

ESTIMATED SOURCES AND USES OF FUNDS

Following are the estimated sources and uses for funds (excluding investment income) associated with the Project and the issuance of the Series 2021 Bonds:

Sources of Funds

| | |
|-------------------------------|-----------------|
| Series 2021 Bond Par Amount | \$17,770,000.00 |
| Plus Original Issue Premium | 2,475,356.10 |
| Cash Contribution from School | 19,500,000.00 |

Total Sources of Funds

\$39,745,356.10

Uses of Funds

| | |
|--|-----------------|
| Deposit to Project Fund | \$37,202,000.00 |
| Deposit to Debt Service Reserve Fund | 1,600,400.00 |
| Costs of Issuance and Underwriter's Discount | 942,956.10 |

Total Uses of Funds

\$39,745,356.10

* Includes Issuer's Fee, Bond Counsel, Borrower's Counsel, title insurance, Underwriter's counsel, rating agency fees, and other costs incurred in connection with the bond issue.

DEBT SERVICE SCHEDULE

The table below sets forth the amounts required to be paid with respect to the Series 2021 Bonds, assuming no prepayments or redemption prior to maturity. All amounts shown in the table below are gross debt service prior to the application of any earnings on amounts deposited in the Funds and Accounts established under the Indenture. Interest on the Series 2021 Bonds will be paid on June 15 and December 15 of each year, commencing December 15, 2021. Principal of the Series 2021 Bonds will be paid on June 15 of each year, commencing June 15, 2022.

| Year Ending (June 30) | <u>Principal</u> | <u>Interest</u> | <u>Total</u> |
|----------------------------------|-------------------------|------------------------|---------------------|
| 2022 | \$ 885,000 | \$708,825.56 | \$1,593,825.56 |
| 2023 | 920,000 | 675,400.00 | 1,595,400.00 |
| 2024 | 960,000 | 638,600.00 | 1,598,600.00 |
| 2025 | 1,000,000 | 600,200.00 | 1,600,200.00 |
| 2026 | 1,040,000 | 560,200.00 | 1,600,200.00 |
| 2027 | 1,080,000 | 518,600.00 | 1,598,600.00 |
| 2028 | 1,125,000 | 475,400.00 | 1,600,400.00 |
| 2029 | 1,170,000 | 430,400.00 | 1,600,400.00 |
| 2030 | 1,215,000 | 383,600.00 | 1,598,600.00 |

| | | | |
|----------------------|----------------------------|------------------------------|-------------------------------|
| 2031 | 1,265,000 | 335,000.00 | 1,600,000.00 |
| 2032 | 1,315,000 | 284,400.00 | 1,599,400.00 |
| 2033 | 1,365,000 | 231,800.00 | 1,596,800.00 |
| 2034 | 1,420,000 | 177,200.00 | 1,597,200.00 |
| 2035 | 1,475,000 | 120,400.00 | 1,595,400.00 |
| <u>2036</u> | <u>1,535,000</u> | <u>61,400.00</u> | <u>1,596,400.00</u> |
| <u>TOTALS</u> | <u>\$17,770,000</u> | <u>\$6,201,425.56</u> | <u>\$23,971,425.56</u> |

CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK

This section provides a brief overview of New York’s current system for funding charter schools. Prospective purchasers of the Series 2021 Bonds should note that the overview contained below, and the summary of relevant New York state law provisions contained in APPENDIX A hereto are provided for the convenience of prospective purchasers but are not and do not purport to be comprehensive. Potential purchasers should note that the law applicable to charter schools in New York has developed over time and is subject to further changes in the future. See “RISK FACTORS—Changes in Law; Annual Appropriation; Inadequate Education Aid Payments” in this Official Statement.

General

Charter schools in New York are eligible to receive funds from State, federal and private sources. The principal source of charter school funding in New York is “Charter School Basic Tuition” which is paid directly to a charter school by the school district of residence of each student enrolled in the charter school. The enrollment of students attending charter schools is included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The amount of Charter School Basic Tuition for a particular school year paid by a school district is derived from formulas based on the school district’s “Expense Per Pupil” as defined in the State Education Law. See “Charter School Basic Tuition” below for a more detailed description. In addition, the school district of residence of a student with a disability attending a charter school is required to pay directly to such charter school any federal or state aid attributable to such student in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Such amounts may be reduced pursuant to an agreement between the school and the charter entity as set forth in the charter. See “Federal and State Aid Attributable to a Student with a Disability” below for further detail. In the event a school district fails to make the payments described above, the State comptroller is directed to deduct from any State funds which become due to such school district an amount equal to the unpaid obligation, which the State comptroller will then pay to the charter school. In 2014, the Charter Schools Act was amended to provide for facilities assistance to charter schools under certain circumstances. Such assistance may be in the form of co-located space within a school district facility, alternative private space or, under certain circumstances, rental subsidy payments in an amount determined pursuant to the Charter Schools Act. See “Facilities Access Payments/Rental Assistance” below for a more detailed description. See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.

Charter School Basic Tuition

Charter School Basic Tuition is calculated according to a series of statutory formulas, which are detailed and complicated. By way of overview, a description of the Charter School Basic Tuition formula is provided in this section. Pursuant to Section 2856 of the Charter Schools Act, Charter School Basic Tuition is equal to the school district’s “Expense Per Pupil” for the year prior to the “Base Year” (i.e., the

school year immediately preceding the current year) increased by the percentage change in the state total “Approved Operating Expense” from two years prior to the Base Year to the Base Year, with certain adjustments set forth for each school year. See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW—Financing of Charter Schools” for a detailed description of the Charter School Basic Tuition for each school year. The calculation for Expense Per Pupil is a function of Approved Operating Expense for the year prior to the Base Year divided by the sum, computed using year prior to the Base Year pupil counts, of: (i) “Total Aidable Pupil Units” and (ii) “Weighted Pupils With Disabilities.” See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW—Charter School Basic Tuition” in this Official Statement for a detailed discussion of the Charter School Basic Tuition formula and applicable definitions, including “Approved Operating Expense.”

For this purpose, “Total Aidable Pupil Units” is the sum of: (i) the school district’s “Adjusted Average Daily Attendance” for the year prior to the Base Year multiplied by the “Enrollment Index” for the Base Year, plus (ii) the “Additional Aidable Pupil Units” for the year prior to the Base Year.

Adjusted Average Daily Attendance. For purposes of computing Adjusted Average Daily Attendance, the average daily attendance of public school pupils in a full-day kindergarten and grades 1-12 is counted as the basic unit, with the attendance of such pupils in one-half day kindergartens counted as one-half of such basic unit. The sum of all such units of attendance is the Adjusted Average Daily Attendance. Adjusted Average Daily Attendance is calculated by: (i) determining the number of religious holidays which fall on a school day within a school year according to regulations established by the Commissioner; (ii) deducting the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deducting such religious holidays from the total number of days of session, by grade level; and (iv) computing the adjusted average daily attendance for the school year.

Enrollment Index. Enrollment Index is computed by dividing the public school enrollment for the current year by public school enrollment for the Base Year, with the result carried to three decimal places without rounding. “Enrollment” means the unduplicated count of all children registered to receive educational services in grades K-12, including children in ungraded programs, as registered on the date prior to November 1 that is specified by the Commissioner as the enrollment reporting date. “Public School District Enrollment” means the sum of: (1) the number of children on a regular enrollment register of a public school district on such date; (2) the number of children eligible to receive home instruction in the school district on such date; (3) the number of children for whom Equivalent Attendance must be computed on such date; (4) the number of children with disabilities who are residents of such district who are registered on such date to attend certain programs under the New York Education Law; (5) the number of children eligible to receive educational services on such date but not claimed for aid; and (6) the number of children registered on such date to attend certain programs pursuant to the New York Education Law.

Additional Aidable Pupil Units. Additional Aidable Pupil Units is the sum of: (i) the attendance of summer session pupils multiplied by 12%, and (ii) the “Weighted Pupils With Special Educational Needs.” Weighted Pupils With Special Educational Needs is calculated by multiplying pupils with special educational needs by 25%, with the result rounded up to the next whole number.

Weighted Pupils With Disabilities. Weighted Pupils With Disabilities is calculated as the attendance of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services, and who receive such programs and services from the school district of attendance during the Base Year, multiplied by a special services weighting determined as follows:

(a) for placement for 60% or more of the school day in a special class, or home or hospital instruction for a period of more than 60 days, or special services or programs for more than 60% of the school day, the special services weighting is 170%;

(b) for placement for 20% or more of the school week in a resource room or special services or programs including related services required for 20% or more of the school week, or in the case of pupils in grades 7–12 or a multi-level middle school program or in the case of pupils in grades 4–6 in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of 180 minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, the special services weighting is 90%.

The Charter School Basic Tuition is set annually in June. School districts (in the case of the School, the NYC DOE on behalf of the New York City Community School District 7) are required to pay no later than the first business day of July, September, November, January, March and May the appropriate payment amounts as specified in the New York Education Law relating to the Charter School Basic Tuition. The payments are made in equal installments, adjusted for any supplemental payments due or overpayments to be recovered for the prior school year. See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW—Financial Obligations of Charter Schools, Public School Districts and Education Department” in this Official Statement.

Federal and State Aid Attributable to a Student with a Disability

In addition to the Charter School Basic Tuition, school districts are required to pay directly to charter schools any federal or state aid attributable to a student with a disability attending the charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Such amounts may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW—Financing of Charter Schools” and “—Public School District Payments to Charter Schools” in this Official Statement.

State aid attributable to a student with a disability attending a charter school is calculated as the sum of: (i) “Excess Cost Aid” payable to a public school district pursuant to the New York Education Law based on the resident weighted enrollment in the charter school of pupils with disabilities receiving special services or programs provided directly or indirectly by the charter school in the current school year; and (ii) any apportionment payable to such public school district pursuant to the New York Education Law that is based on the cost of special services or programs provided directly or indirectly by the charter school to such pupil in the current school year. Excess Cost Aid is calculated as the product of: (i) excess cost aid per pupil calculated pursuant to the New York Education Law; (ii) the proportion of the weighting attributable to the student’s level of service provided directly or indirectly by the charter school pursuant to the New York Education Law; and (iii) the student’s enrollment in such charter school in the current school year.

Federal aid attributable to a student with a disability attending a charter school, and receiving special education services or programs provided directly or indirectly by the charter school, is calculated as follows:

(a) for the first year of operation of the charter school, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 for a pupil who is identified as a student with a disability, who is included in a report to the Commissioner of pupils so identified as of December 1st of the current school year, or for such other pupil count as specified by the federal government for the current school year, provided that the enrollment of such students in the

charter school during the current school year is used for this purpose until such report, or a report of such other pupil count, has been received by the Commissioner; and

(b) for the second year of operation of the charter school and thereafter, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 for a pupil who is identified as a student with a disability, who is included in a report to the Commissioner of pupils so identified as of December 1st of the Base Year, or for such other pupil count as specified by the federal government.

Payments for federal or state aid attributable to a student with a disability to charter schools must be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. See “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW—Financing of Charter Schools” in this Official Statement.

Facilities Access Payments/Rental Assistance

In March 2014, Section 2853 of the Charter Schools Act was amended to grant a subset of New York charter schools a new statutory right to request access to facilities. Charter schools in New York City that commenced instruction or added grade levels in the 2014-2015 school year or thereafter are eligible to request co-location within a public-school building. Upon such request, such charter school must be provided access to facilities pursuant to the Charter Schools Act, either in co-located space in a school district building, alternative private space provided by the school district at no cost to the charter school, or, upon a successful appeal by the charter school, in the form of rental assistance payments from the school district (“**Facilities Access Payments**”). For eligible charter schools that have expanded grade levels during the 2014-2015 school year or thereafter, the Facilities Access Payments are calculated, as described below, based on increases in enrollment from the school year prior to the first year of the expansion to the current school year.

The maximum amount of Facilities Access Payments available to eligible New York City charter schools for the 2020-21 school year is 30% of the per pupil funding (Approximately \$4,836), to the extent such amount does not exceed actual rental costs. See “APPENDIX B—BUDGET PROJECTION,” and “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement for a more detailed discussion of Facilities Access Payments.

The amount of Facilities Access Payments is determined pursuant to a formula set forth in the Charter Schools Act. If an appeal of a school district’s offer or failure to offer a co-location site in response to a charter school’s request results in a determination in favor of the charter school, the city school district will pay the charter school an amount attributable to the grade level expansion or the formation of the new charter school that is equal to the lesser of:

(a) the actual rental cost of an alternative privately owned site selected by the charter school, or

(b) 30% of the product of the Charter School Basic Tuition for the current school year and (i) for a new charter school that first commences instruction on or after July 1, 2014, the charter school’s current year enrollment; or (ii) for a charter school which expands its grade level, pursuant to the Charter Schools Act, the positive difference of the charter school’s enrollment in the current school year minus the charter school’s enrollment in the school year prior to the first year of the expansion.

A 2017 amendment to the Charter Schools Act increased the percentage in (b) above from 20% to 30%. Further, pursuant to the Charter Schools Act, there have been annual adjustments to the calculation of Charter School Basic Tuition, which have resulted in increases to the amount of Facilities Access Payments available to eligible New York City charter schools, to the extent such amount does not exceed a charter school's actual rental costs. Such available amounts of Facilities Access Payments have been as follows: (i) 2014-2015 school year, approximately \$2,755 per pupil; (ii) 2015-2016 school year, approximately \$2,805 per pupil; (iii) 2016-2017 school year, approximately \$2,805 per pupil; and (iv) 2017-2018 school year, approximately \$4,350 per pupil. Facilities Access Payments are paid by a city school district to a charter school in the same manner as federal or state aid attributable to a student with a disability is paid pursuant to the Charter Schools Act (i.e., in six substantially equal bi-monthly installments each year beginning on the first business day of July and every two months thereafter). See also "APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW" in this Official Statement.

In its Budget Projections attached at APPENDIX B, the School is not assuming it will receive Facilities Access Payments related to the New Facility.

THE SERIES 2021 BONDS

Interest; Maturity; Payment

The Series 2021 Bonds will be issued in the principal amount of \$17,770,000. The Series 2021 Bonds will bear interest as to each principal installment from the date of issuance, all as set forth on the inside front cover hereof. Interest on the Series 2021 Bonds will be payable semi-annually on June 15 and December 15 (each an "**Interest Payment Date**") of each year, commencing on December 15, 2021. Interest on the Series 2021 Bonds will be calculated on the basis of a 360-day year with twelve months of thirty days.

The Series 2021 Bonds will be issued in the form of fully registered bonds without coupons in Authorized Denominations. The principal of, Sinking Fund Installments for, interest on, and redemption premium, if any, on the Series 2021 Bonds will be payable when due by wire of the Trustee to The Depository Trust Company, New York, New York ("**DTC**"), which will in turn remit such principal, Sinking Fund Installments, interest and redemption premium, if any, to Participants, which Participants will in turn remit such principal, Sinking Fund Installments, interest and redemption premium, if any, to the Beneficial Owners of the Series 2021 Bonds as described in this Official Statement. See "APPENDIX G—BOOK—ENTRY ONLY SYSTEM" in this Official Statement.

In the event the Series 2021 Bonds are not registered in the name of Cede & Co., as nominee of DTC, or another eligible depository as described below, the principal of, Sinking Fund Installments for, and the Redemption Price of the Series 2021 Bonds will be payable by check or draft or wire transfer to the persons in whose names such Bonds are registered on the registration books maintained by the Trustee at the maturity or redemption thereof, or with respect to any payment in full of any Series 2021 Bond either at final maturity or upon redemption in whole, only at the designated corporate trust office of the Trustee, as described in the Indenture. Interest payable on each Series 2021 Bond on any Interest Payment Date will be paid by the Trustee to the registered owner of such Series 2021 Bond as shown on the bond registration books of the Trustee at the close of business on the regular Record Date for such interest, by check or draft mailed to such registered owner at his address as it appears on the bond registration books, or at the written request by any registered owner of Series 2021 Bonds in the aggregate principal amount of at least \$1,000,000, by electronic transfer, as described in the Indenture.

Interest on any Series 2021 Bond that is due and payable but not paid on the date due (“**Defaulted Interest**”) shall cease to be payable to the owner of such Series 2021 Bond on the relevant regular Record Date and shall be payable to the owner in whose name such Series 2021 Bond is registered at the close of business on a special record date (the “**Special Record Date**”) for the payment of such Defaulted Interest, which Special Record Date shall be fixed as provided in the Indenture.

Redemption of Series 2021 Bonds

General Optional Redemption. The Series 2021 Bonds are subject to optional redemption, on or after June 15, 2028, in whole or in part on any date, at the Redemption Price of 100% of unpaid principal amount of the Series 2021 Bonds to be redeemed, plus accrued interest to the date of redemption.

Mandatory Sinking Fund Installment Redemption. The Series 2021 Bonds maturing June 15, 2036 are subject to mandatory sinking fund redemption by the Issuer prior to maturity, in part by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date of redemption, from mandatory Sinking Fund Installments on the dates and in the principal amounts set forth below, provided that the amounts of such Sinking Fund Installments shall be reduced by the credits provided for in the Indenture:

| Sinking Fund Installment Payment Date (June 15) | Sinking Fund Installment |
|--|-------------------------------------|
| 2032 | 1,315,000 |
| 2033 | 1,365,000 |
| 2034 | 1,420,000 |
| 2035 | 1,475,000 |
| 2036* | 1,535,000 |

* Final Maturity

Extraordinary Optional Redemption. The Series 2021 Bonds are subject to redemption prior to maturity, at the option of the Issuer exercised at the direction of the Borrower (which option shall be exercised only upon the giving of notice by the Borrower of its intention to prepay Loan Payments due under the Loan Agreement), as a whole on any date, upon notice or waiver of notice as provided in the Indenture, at a Redemption Price equal to one hundred percent (100%) of the unpaid principal amount thereof plus accrued interest to the date of redemption, if one or more of the following events shall have occurred:

(a) The New Facility shall have been damaged or destroyed to such extent that, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee, (A) the New Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the School is thereby prevented or likely to be prevented from carrying on its normal operation at the New Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the New Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(b) Title to, or the temporary use of, all or substantially all of the New Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the School being thereby prevented or likely to be prevented from carrying on

its normal operation at the New Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee; or

(c) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Borrower and/or the School, the Loan Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein or unreasonable burdens or excessive liabilities are imposed upon the Borrower and/or the School by reason of the operation of the New Facility.

If the Series 2021 Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the School shall deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the School stating that, as a result of the occurrence of the event giving rise to such redemption, the School has discontinued, or at the earliest practicable date will discontinue, its operation of the New Facility for its intended purposes.

Mandatory Redemption from Certain Other Amounts. The Series 2021 Bonds shall be redeemed at any time in whole or in part by lot prior to maturity in the event and to the extent: (i) in the case of the Series 2021 Bonds only, excess Series 2021 Bond proceeds shall remain after the completion of the Project, (ii) in the case of the Series 2021 Bonds but only on a Pro Rata Basis, excess title insurance or property insurance proceeds or condemnation awards shall remain after the application thereof pursuant to the Loan Agreement and the Indenture, or (iii) in the case of the Series 2021 Bonds but only on a Pro Rata Basis, excess proceeds shall remain after the release or substitution of New Facility Realty or New Facility Personalty, and in each case at a Redemption Price equal to one hundred percent (100%) of the principal amount of the Series 2021 Bonds to be redeemed, together with interest accrued thereon to the Redemption Date.

Mandatory Redemption upon Failure to Operate the New Facility for the Approved Project Operations, Material Violation of Material Legal Requirements, False Representation or Failure to Maintain Liability Insurance. The Series 2021 Bonds are subject to mandatory redemption prior to maturity, at the option of the Issuer, as a whole only, in the event (i) the Issuer shall determine that (w) the Borrower and/or the School is operating the New Facility or any portion thereof, or is allowing the New Facility or any portion thereof to be operated, not for the Approved Project Operations, (x) the Borrower, the School, any Principal of the Borrower and/or of the School or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Borrower and/or the School has committed a material violation of a material Legal Requirement, (y) any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, or (ii) the Borrower and/or the School shall fail to obtain or maintain the liability insurance with respect to the New Facility required under the Loan Agreement, and, in the case of clause (i) or (ii) above, the Borrower and/or the School shall fail to cure any such default or failure within the applicable time periods set forth in the Loan Agreement following the receipt by the Borrower and/or the School of written notice of such default or failure from the Issuer and a demand by the Issuer on the Borrower and/or the School to cure the same. Any such redemption shall be made upon notice or waiver of notice to the Bondholders as provided in the Indenture, at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Series 2021 Bonds, together with interest accrued thereon to the date of redemption.

Mandatory Taxability Redemption. Upon the occurrence of a Determination of Taxability, the Series 2021 Bonds shall be redeemed prior to maturity on any date within one hundred eighty (180) days following such Determination of Taxability, at a Redemption Price equal to the principal thereof, together with accrued interest to the Redemption Date. The Series 2021 Bonds shall be redeemed in whole unless redemption of a portion of the Series 2021 Bonds Outstanding would have the result that interest payable on the Series 2021 Bonds remaining Outstanding after such redemption would not be includable in the gross income of any Holder of a Series 2021 Bond. In such event, the Series 2021 Bonds shall be redeemed in such amount as is deemed necessary in the opinion of Nationally Recognized Bond Counsel to accomplish that result.

“Determination of Taxability” means: (i) (A) the adoption, promulgation, or enactment of any federal statute or regulation, or any determination, decision, decree or ruling made by the Commissioner or any District Director of the Internal Revenue Service; (B) the issuance of a public or private ruling or a technical advice memorandum by the Internal Revenue Service in which the Borrower or the School have participated or have been given the opportunity to participate, and which ruling or memorandum the Borrower and the School, in their discretion, does not contest or from which no further right of judicial review or appeal exists; (C) a determination from which no further right of appeal exists of any court of competent jurisdiction in the United States in a proceeding in which the Borrower or the School have participated or have been a party, or has been given the opportunity to participate or be a party; or (D) the admission in writing by the Borrower or the School, in any case, to the effect that the interest payable on the Series 2021 Bonds of a Holder or a former Holder thereof is includable in gross income for federal tax purposes; or (ii) the receipt by the Trustee of a written opinion of Nationally Recognized Bond Counsel to the effect that the interest payable on the Series 2021 Bonds is includable in gross income for federal income tax purposes or the refusal of any such counsel to render a written opinion that the interest on the Series 2021 Bonds is not so includable when required pursuant to a request by a Bondholder in accordance with the procedures set forth in the Indenture; provided, however, that no such Determination of Taxability described in clauses (i) (B) or (i)(C) of this definition shall be considered to exist unless (1) the Holder or former Holder of the Series 2021 Bond involved in such proceeding (a) gives the Borrower and the Trustee prompt notice of the commencement thereof and (b) (if the Borrower agrees to pay all expenses in connection therewith) offers the Borrower the opportunity to control the defense thereof and (2) either (a)

the Borrower does not agree within thirty (30) days of receipt of such offer to pay such expenses and to control such defense or (b) the Borrower shall exhaust or choose not to exhaust all available proceedings for the contest review, appeal or rehearing of such decree, judgment or action which the Borrower determines to be appropriate. A Bondholder shall have the right to request the Trustee to obtain a written opinion of Nationally Recognized Bond Counsel pursuant to clause (ii) above, at the expense of the Borrower, upon delivery by the Bondholder to the Borrower of a letter from the Bondholder's accountant stating that, in his or her reasonable opinion, interest on the Series 2021 Bonds is includable in the gross income of such Bondholder for federal income tax purposes and stating the reasons for such determination. No Determination of Taxability described above will result from the inclusion of interest on any Series 2021 Bond in the computation of minimum or indirect taxes.

Purchase in Lieu of Optional Redemption. In lieu of calling the Series 2021 Bonds for optional redemption, the Series 2021 Bonds are subject to mandatory tender for purchase at the direction of the Issuer, upon the direction of the Borrower, in whole or in part (and, if in part, in such manner as determined by the Borrower) on any date on or after June 15, 2028, at a Purchase Price equal to the applicable Redemption Price for any optional redemption of such Series 2021 Bonds as described above, plus accrued interest to the purchase date. Purchases of tendered Series 2021 Bonds may be made without regard to any provision of the Indenture relating to the selection of Series 2021 Bonds in a partial optional redemption. The Series 2021 Bonds purchased pursuant to any mandatory tender(s) are required to be cancelled, and until cancelled, shall not be deemed Outstanding.

Purchases in lieu of an optional redemption are permitted in the Indenture, with the consent of the Issuer, upon the delivery to the Issuer and the Trustee of (i) an opinion of Nationally Recognized Bond Counsel addressed to the Issuer and the Trustee substantially to the effect that (A) such purchases in lieu of optional redemption comply with the provisions of the Indenture and (B) neither such purchases in lieu of an optional redemption nor any transaction directly related thereto will adversely affect the exclusion from gross income of interest on the Series 2021 Bonds for purposes of federal income taxation, and (ii) such other opinions, certificates or documentation as the Issuer may require.

Notice of Redemption. When redemption of any Series 2021 Bonds is requested or required pursuant to the Indenture, the Trustee shall give notice of such redemption in the name of the Issuer, specifying the name of the Series, CUSIP number, Series 2021 Bond numbers, the date of original issue of such Series, the date of mailing of the notice of redemption, maturities, interest rates and principal amounts of the Series 2021 Bonds or portions thereof to be redeemed, the Redemption Date, the Redemption Price, and the place or places where amounts due upon such redemption will be payable (including the name, address and telephone number of a contact person at the Trustee) and specifying the principal amounts of the Series 2021 Bonds or portions thereof to be payable and, if less than all of the Series 2021 Bonds of any maturity are to be redeemed, the numbers of such Series 2021 Bonds or portions thereof to be so redeemed. Such notice shall further state that on such date there shall become due and payable upon each Series 2021 Bond or portion thereof to be redeemed the Redemption Price thereof together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice may set forth any additional information relating to such redemption. The Trustee, in the name and on behalf of the Issuer, (i) shall mail a copy of such notice by first class mail, postage prepaid, not more than 60 nor less than 30 days prior to the Redemption Date, to the registered owners of any Series 2021 Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registration books, but any defect in such notice shall not affect the validity of the proceedings for the redemption of such Series 2021 Bonds with respect to which proper mailing was effected; and (ii) cause notice of such redemption to be sent to the national information service that disseminates redemption notices. Any notice mailed as described in this paragraph shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. In the event of a postal strike, the Trustee shall give notice by other appropriate means selected by the Trustee in its discretion. If any Series 2021 Bond shall not be presented

for payment of the Redemption Price within 60 days of the Redemption Date, the Trustee shall mail a second notice of redemption to such Holder by first class mail, postage prepaid. Any amounts held by the Trustee due to non-presentment of Series 2021 Bonds for payments on or after any Redemption Date shall be retained by the Trustee for a period of at least one year after the final maturity date of such Series 2021 Bonds. Further, if any Holders of Series 2021 Bonds shall constitute registered depositories, the notice of redemption described in the first sentence of this paragraph shall be mailed to such Holders at least two (2) days prior to the mailing of such notice to all Holders.

If notice of redemption shall have been given as aforesaid, the Series 2021 Bonds of such Series called for redemption shall become due and payable on the Redemption Date, provided, however, that with respect to any optional redemption of the Series 2021 Bonds of a Series, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2021 Bonds of such Series to be redeemed, and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem the Series 2021 Bonds of such Series. In the event that such notice of optional redemption contains such a condition, and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. If a notice of optional redemption shall be unconditional, or if the conditions of a conditional notice of optional redemption shall have been satisfied, then upon presentation and surrender of the Series 2021 Bonds of such Series so called for redemption at the place or places of payment, such Series of Series 2021 Bonds shall be redeemed.

Under no circumstances shall the Trustee be required to expend any of its own funds for any purpose for which funds are to be disbursed under the Indenture.

So long as the Securities Depository is affecting book entry transfers of the Series 2021 Bonds, the Trustee shall provide the notices specified above only to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Series 2021 Bond (having been mailed notice from the Trustee, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Series 2021 Bond so affected, shall not affect the validity of the redemption of such Series 2021 Bond.

Payment of Redeemed Series 2021 Bonds. Notice having been given in the manner provided in the Indenture, the Series 2021 Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Dates so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date. If, on the Redemption Date, moneys for the redemption of all the Series 2021 Bonds or portions thereof to be redeemed, together with interest to the Redemption Date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date, (i) interest on the Series 2021 Bonds or portions thereof so called for redemption shall cease to accrue and become payable, (ii) the Series 2021 Bonds or portions thereof so called for redemption shall cease to be entitled to any lien, benefit or security under the Indenture, and (iii) the Holders of the Series 2021 Bonds or portions thereof so called for redemption shall have no rights in respect thereof, except to receive payment of the Redemption Price together with interest accrued to the Redemption Date. If said moneys shall not be so available on the Redemption Date, such Series 2021 Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

Payment of the Redemption Price plus interest accrued to the Redemption Date shall be made to or upon the order of the registered owner only upon presentation of such Series 2021 Bonds for cancellation and exchange as provided in the Indenture; provided, however, that any Holder of at least \$1,000,000 in original aggregate principal amount of the Series 2021 Bonds may, by written request to the Trustee no later than five (5) days prior to the Redemption Date, direct that payments of Redemption Price and accrued interest to the Redemption Date be made by wire transfer as soon as practicable after tender of the Series 2021 Bonds in federal funds at such wire transfer address as the owner shall specify to the Trustee in such written request.

Selection of Series 2021 Bonds for Redemption. In the event of redemption of less than all the Outstanding Series 2021 Bonds of the same Series and maturity, the particular Series 2021 Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair, except that (i) the Series 2021 Bonds to be redeemed from Sinking Fund Installments shall be redeemed by lot, and (ii) to the extent practicable, the Trustee shall select the Series 2021 Bonds for redemption such that no Series 2021 Bond shall be of a denomination of less than the Authorized Denomination for such Series 2021 Bonds. In the event of redemption of less than all the Outstanding Series 2021 Bonds of the same Series stated to mature on different dates, the principal amount of such Series of Series 2021 Bonds to be redeemed shall be applied in inverse order of maturity of the Outstanding Series 2021 Bonds to be redeemed and by lot within a maturity. The portion of the Series 2021 Bonds to be redeemed in part shall be in the principal amount of the minimum Authorized Denomination thereof or some integral multiple thereof and, in selecting Series 2021 Bonds for redemption, the Trustee shall treat each such Series 2021 Bond as representing that number of Series 2021 Bonds of such Series which is obtained by dividing the principal amount of such registered Series 2021 Bond by the minimum Authorized Denomination thereof (referred to below as a “unit”) then issuable rounded down to the integral multiple of such minimum Authorized Denomination. If it is determined that one or more, but not all, of the units of principal amount represented by any such Series 2021 Bond is to be called for redemption, then, upon notice of intention to redeem such unit or units, the Holder of such Series 2021 Bond shall forthwith surrender such Series 2021 Bond to the Trustee for (a) payment to such Holder of the Redemption Price of the unit or units of principal amount called for redemption and (b) delivery to such Holder of a new Series 2021 Bond or Series 2021 Bonds in the aggregate unpaid principal amount of the unredeemed balance of the principal amount of such Series 2021 Bond. New Series 2021 Bonds of a maturity representing the unredeemed balance of the principal amount of such Series 2021 Bond shall be issued to the registered Holder thereof, without charge therefor. If the Holder of any such Series 2021 Bond of a denomination greater than a unit shall fail to present such Series 2021 Bond to the Trustee for payment and exchange as aforesaid, such Series 2021 Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the unit or units of principal amount called for redemption (and to that extent only).

SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS

Special Limited Revenue Obligations

THE SERIES 2021 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, SINKING FUND INSTALLMENTS, REDEMPTION PRICE AND INTEREST, SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2021 BONDS. THE SERIES 2021 BONDS WILL

NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2021 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE, AGENT OR REPRESENTATIVE OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

General

Under the Loan Agreement, the Issuer agrees to issue the Series 2021 Bonds and to lend the proceeds thereof to the Borrower to finance the Project, and the Borrower is obligated unconditionally to repay the Loan in amounts sufficient, together with available funds held under the Indenture, to provide for the timely payment of the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the Series 2021 Bonds when due (whether by maturity, mandatory sinking fund redemption or acceleration) and to perform certain other obligations set forth therein. Among other things, the Borrower will covenant not to grant any liens (other than the lien effected by the Loan Agreement and Permitted Encumbrances) on all or any portion of the New Facility. The obligation of the Borrower to make Loan Payments under the Loan Agreement and the Promissory Notes sufficient to pay the Series 2021 Bonds is an absolute and unconditional obligation of the Borrower; provided, however, that the ability of the Borrower to generate additional revenues is limited in the event payments of the School Lease Rental Payments by the School under the School Lease are insufficient for the Borrower to make Loan Payments. Under the Loan Agreement, Loan Payment Dates are the fifteenth (15th) day of January, March, May, July, September and November (or, if the fifteenth (15th) day shall not be a Business Day, the immediately preceding Business Day), commencing July 15, 2021*. See “APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Loan Agreement” in this Official Statement.

Pursuant to the terms of the Mortgage, the Borrower will grant to the Issuer and the Trustee a mortgage lien on and a security interest in the New Facility, subject to Permitted Encumbrances. The liens and security interests created by the Indenture and the Mortgage are for the equal and ratable benefit of the owners of the Series 2021 Bonds. The Loan Agreement and the Mortgage contain the general liability insurance and property insurance requirements for the Borrower. See “RISK FACTORS” in this Official Statement for a discussion of certain limitations on the enforceability of the security for the Series 2021 Bonds.

School Lease

The School Lease Rental Payments due from the School to the Borrower under the School Lease will be in amounts anticipated to be sufficient to make Loan Payments under the Loan Agreement. Commencing on July 15, 2021, and thereafter during the term of the School Lease, the School is to pay the Borrower, as School Lease Rental Payments, the amounts payable at the same times as specified for payment of amounts due and payable under the Loan Agreement by the Borrower to the Issuer which amounts are no less than the amount required to pay debt service on the Series 2021 Bonds as the same becomes due and payable under the Indenture. The School Lease is a triple net lease, and the School is to pay on or before the date when same shall be due as additional rent all amounts owed in connection with the operation of the New Facility including, but not limited to (i) real estate taxes, if any, (ii) property,

* Preliminary, subject to change.

casualty and liability insurance, (iii) utilities, (iv) water/sewer charges, and (v) all maintenance, cleaning and repairs (structural and non-structural of any nature whatsoever).

Except as provided to the contrary in the School Lease, the obligations of the School under the School Lease shall be absolute and unconditional, irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Borrower. Except as provided to the contrary in the School Lease, the School will not suspend or discontinue any such payment or terminate the School Lease (other than in the manner provided for thereunder) for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute failure of consideration, failure of title, or commercial frustration of purpose, or any damage to or destruction of the New Facility, or the taking by eminent domain of title to or the right of temporary use of all or any part of the New Facility, or any change in the tax or other laws of the United States, the State of New York or any political subdivision of either thereof, or any failure of the Borrower to pay, perform and observe any payment, agreement or covenant, whether expressed or implied, or any duty, liability or obligation arising out of or connected with the School Lease.

Pursuant to the Custody Agreement, the School will cause payments of Education Aid due to the School to be delivered to the Custodian, and the Custodian will transfer certain portions of such moneys, in amounts equal to debt service payments and other amounts due in connection with the Series 2021 Bonds to the Trustee for deposit under the Indenture on account of School Lease Rental Payments owed by the School to the Borrower under the School Lease, all as set forth in the Indenture.

The Series 2021 Bonds are further secured by a lien and security interest in the New Facility Realty, the New Facility Personalty and certain proceeds pursuant to, and as defined in, the Mortgage from the Borrower to the Trustee.

Flow of Funds under the Custody Agreement

Except as otherwise provided in the Custody Agreement, the Trustee shall deliver the Custody Agreement Notice to the Custodian no later than five (5) Business Days before each State Education Operating Aid Payment Date.

Except as otherwise provided in the Custody Agreement, each Custody Agreement Notice shall be prepared by the Trustee in substantially the form of Exhibit A attached to the Custody Agreement, with respect to each period from and including July, 2021, and from and including each succeeding State Education Operating Aid Payment Date, through and including the calendar day preceding each subsequent State Education Operating Aid Payment Date (each an “**Education Aid Funding Period**”), certifying the respective aggregate amounts to be transferred by the Custodian to the Trustee during the applicable Education Aid Funding Period.

Each Custody Agreement Notice shall describe the amount of Education Aid necessary to be paid to the Trustee to satisfy the payment obligations of the School under Section 6.3 of the Loan Agreement. Accordingly, each Custody Agreement Notice shall contain the following information: (1) a statement of the total amount of Education Aid to be paid over to the Trustee on the applicable State Education Operating Aid Payment Date, and (2) statements describing the portions of such total amount to be deposited into the various funds and accounts held by the Trustee under the Indenture pursuant to Section 5.05(e) thereof. The Trustee shall prepare each Custody Agreement Notice in consultation with the School.

The School shall provide the Trustee, in a timely fashion (but at least ten (10) Business Days prior to each State Education Operating Aid Payment Date), the information reasonably needed by the Trustee in order to permit the Trustee to prepare each Custody Agreement Notice.

Acceleration

Upon the occurrence of certain events, payment of the principal of and accrued interest on the Series 2021 Bonds may be accelerated under the Indenture. See “RISK FACTORS”; APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Loan Agreement—*Events of Default*” and “—Remedies on Default”; and “APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Indenture of Trust—*Events of Default; Acceleration of Due Date*” and “—Enforcement of Remedies” in this Official Statement.

Covenants of the School

Debt Service Coverage Ratio. Commencing on June 30, 2022 and continuing thereafter, the Borrower and the School covenant in the School Lease to comply on a consolidated basis with the Debt Service Coverage Ratio Requirement as of each Ratio Evaluation Date. Commencing thereupon and continuing thereafter, the Borrower and the School will include a computation of the Debt Service Coverage Ratio in the reports required to be submitted as described in the School Lease.

Beginning with the Fiscal Year ended June 30, 2022, the Borrower and the School, on a consolidated basis, shall calculate annually the Debt Service Coverage Ratio for the most recently completed Fiscal Year, and shall provide a copy of such calculation to the Trustee at the time of delivery of the annual audited financial statements. If the Debt Service Coverage Ratio indicates that the Debt Service Coverage Ratio of the Borrower and the School, on a consolidated basis, for such previous Fiscal Year is less than 1.10 to 1.0 but equal to or greater than 1.0 to 1.0, the Borrower and/or the School, shall, within thirty (30) days of the date of such calculation, provide the Trustee with a detailed written explanation from an Authorized Representative of the Borrower and/or the School stating the reasons for the Borrower and/or the School’s failure to achieve the required Debt Service Coverage Ratio and their plan for achieving such Long-Term Debt Service Coverage Ratio by the end of the next Fiscal Year. In the event that the Borrower and/or the School are unable to comply with the above Long-Term Debt Service Coverage Ratio requirement within 12 months of the initial non-compliance, then the Majority Holders shall have the right to direct the Trustee to require the Borrower and/or the School to engage, at the Borrower and/or the School expense, a Management Consultant acceptable to the Majority Holders, which shall deliver a written report within 60 days of engagement to the Trustee containing recommendations concerning either Institution’s:

- i. operations;
- ii. financing practices and activities, including Short-Term Indebtedness, lease financing, and investment activities;
- iii. management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution’s financial condition;
- iv. governance and administration practices; and
- v. other factors relevant to maintaining such compliance.

Upon submission of the Management Consultant’s report, the Borrower and/or the School are required to arrange for payment of the amount owed to the Management Consultant and issue a written

certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the Borrower and/or the School to comply with any reasonable recommendation of the Management Consultant with respect to items (i) through (v) above.

Notwithstanding anything to the contrary contained herein, the Borrower and/or the School's failure to maintain a Long-Term Debt Service Coverage Ratio of at least 1.0 to 1.0 shall constitute an Event of Default under the School Lease.

Days' Cash on Hand. The Borrower and the School covenant in the School Lease that they will meet the Days' Cash on Hand Requirement on a consolidated basis of at least 60 Days' Cash on Hand on each Liquidity Testing Date, and that they will calculate the Days' Cash on Hand on each Liquidity Testing Date and will deliver Days' Cash on Hand reports as described in the School Lease.

If on any Liquidity Testing Date, beginning with the Fiscal Year ending June 30, 2022, Days Cash on Hand is below the Days Cash on Hand Requirement, the Borrower and the School shall retain on an annual basis a minimum 50% of the Excess Net Revenues until such time as it is in compliance. Operating Expenses Operating Expenses for purposes calculating Days Cash on Hand will include interest payments on Long-Term Indebtedness. If the Borrower and the School, on a consolidated basis, is in violation of the minimum Days Cash on Hand requirement, then the Majority Holders shall have the right to direct the Trustee to require the Borrower and/or the School to engage a Management Consultant acceptable to the Majority Holders at the Borrower and the School's expense, which shall deliver a written report within 60 days of engagement to the Trustee and the Institutions containing recommendations concerning either the Borrower and the School's:

- vi. operations;
- vii. financing practices and activities, including Short-Term Indebtedness, lease financing, and investment activities;
- viii. management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution's financial condition;
- ix. governance and administration practices; and
- x. other factors relevant to maintaining such compliance.

Upon submission of the Management Consultant's report, the Borrower and/or the School are required to arrange for payment of the amount owed to the Management Consultant and issue a written certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the Borrower and/or the School to comply with any reasonable recommendation of the Management Consultant with respect to items (i) through (v) above.

Notwithstanding anything to the contrary contained herein, the failure to satisfy any of the covenants contained in Paragraph 12 of the School Lease shall not constitute or be deemed to constitute an Event of Default under the School Lease, provided the recommendations of the Management Consultant are being followed as certified in writing by the Management Consultant at least bi-monthly during the period of the consultancy and provided to the Trustee.

Limitations on Indebtedness. The Borrower and/or the School agree not to incur or become liable for any Indebtedness except as follows (collectively, “**Permitted Indebtedness**”):

(a) The Borrower and the School may incur Indebtedness in the form of the issuance by the Authority of Additional Bonds to complete the Project or incur other Additional Parity Indebtedness from time to time pursuant to the terms and conditions of the Indenture. The Borrower and/or the School shall be precluded from incurring Additional Indebtedness that is senior to the lien of the Mortgage on the Mortgaged Property and the obligations of the Borrower under the Loan Agreement and the School under the School Lease. The Borrower and the School may incur Additional Parity Indebtedness only upon providing to the Trustee a certificate of an Authorized Representative of the Borrower and the School, accompanied by a confirming Independent Financial Consultant’s Certificate, to the effect that (i) the requirements of Section 2.07 of the Indenture have been met, but this clause (i) applies only if the other Indebtedness takes the form of Additional Bonds, and (ii) either:

(i) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility as determined in the most recent audited financial statements of the Borrower/School and (ii) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility proposed to be incurred as determined in the most recent audited financial statements of the Borrower and/or the School; or

(ii) the projected Net Income Available for Debt Service of the Borrower and/or the School is not less than 120% of the combined projected Annual Debt Service for currently outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility proposed to be incurred for three consecutive fiscal years after the earlier of (i) the date the new facility is placed into service or (ii) the year provision for payment of debt service with capitalized interest is expended.

(b) The Borrower and/or the School may incur up to \$500,000 of Indebtedness pursuant to installment sales, conditional sales and Capital Leases in connection with the financing of new or replacement Equipment used to service the New Facility; provided however, any such Indebtedness is secured only by the Equipment acquired by the Borrower and the School with the proceeds of such Indebtedness.

(c) The Borrower and/or the School may incur unsecured Indebtedness or Indebtedness subordinate to the Series 2021 Bonds for working capital purposes of the Borrower and/or the School up to \$500,000 in the aggregate outstanding at any one time. The School and the Borrower shall notify the Continuing Disclosure Agent of the incurrence of any such unsecured or subordinate Indebtedness in excess of \$50,000 in the aggregate outstanding at any one time.

Certain Defined Terms

Additional Parity Indebtedness means any Additional Indebtedness intended to be secured on a parity basis as to payment with the Series 2021 Bonds and sharing in a parity lien of the Mortgage on the Mortgaged Property and the terms of which, including, without limitation, principal and interest payment dates, shall be satisfactory to the Trustee.

Annual Debt Service means, for any Fiscal Year, and subject to the provisions of the Indenture and the School Lease, the amount required to pay the interest and principal for Long-Term Indebtedness (including lease rentals under capitalized leases) in such Fiscal Year, excluding "funded interest" from the proceeds of the Series 2021 Bonds and excluding interest earnings on the Debt Service Reserve Fund at the then current interest rate per annum, to be determined on the assumption that the Series 2021 Bonds will be retired at the stated maturities thereon except those Series 2021 Bonds which are required by the Indenture to be redeemed prior to their stated maturities from sinking fund payments of Borrower is required, by the Loan Agreement and the Indenture, to make for such purpose, which Series 2021 Bonds will be assumed to be retired on their respective scheduled mandatory redemption dates.

Available Cash Balance means the sum of the School's cash, investments and unused and available line(s) of credit available for short term operating purposes.

Balloon Debt means Long-Term Indebtedness where the principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due (or payable in respect of any required purchase of such Long-Term Indebtedness by such Person on demand) in any Fiscal Year either are equal to at least 25% of the total principal of (any premium, if any) and interest and other debt service charges on such Long-Term Indebtedness or exceed by more than 50% the greatest amount of principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due in any preceding or succeeding Fiscal Year.

Days Cash on Hand means, for any Fiscal Year of the School, the number of days determined by dividing the product of Available Cash Balance and three hundred sixty-five (365) by Operating Expenses for such Fiscal Year.

Debt Service Reserve Fund Requirement means with respect to the Series 2021 Bonds, (a) the initial amount of \$1,600,400 or (b) if less than the applicable amount in (a), the maximum annual Debt Service of the Series 2021 Bonds, calculated from time to time as of any date on which a portion of the Series 2021 Bonds is refunded or defeased and deemed no longer Outstanding, as applicable, either of which amount shall not exceed the least of (i) 10% of the original principal amount of the Series 2021 Bonds, or if any series of Bonds are issued with original issue discount, 10% of the proceeds of such Bonds, (ii) the Maximum Annual Debt Service on the Series 2021 Bonds, or (iii) 125% of the average annual debt service on the Series 2021 Bonds. Debt Service Reserve Requirement means with respect to a Series of Additional Bonds for which a separate subaccount is established in the Debt Service Reserve Account, the Debt Service Reserve Requirement established for that Series of Bonds in the related Supplemental Indenture.

Excess Net Revenues means Gross Revenues, less Operating Expenses, annual debt service on Long-Term Indebtedness, payments on any capital leases, and any Debt Service Reserve Fund deficiency payments.

Fiscal Year shall mean, with respect to the School, a year of 365 or 366 days, as the case may be, commencing on July 1 and ending on June 30 of the next calendar year, or such other fiscal year of similar length used by the School for accounting purposes as to which such School shall have given prior written notice thereof to the Issuer and the Trustee at least ninety (90) days prior to the commencement thereof.

Gross Revenues means, regardless of the source, all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of the School, to the extent permitted thereby and by law, including accounts receivables or other rights to receive such revenues, including, without limitation, Education Aid, proceeds derived from insurance, condemnation proceeds, accounts, contract rights and other rights and assets, whether now or hereafter owned, held or possessed by an Institution; and all gifts,

grants, bequests and contributions (including income and profits therefrom) to the extent permitted by the terms thereof and by law.

Long-Term Debt Service Coverage Ratio means, for any Fiscal Year or other specified period, the ratio determined by dividing the Net Income Available for Debt Service by the debt service due in that Fiscal Year. When calculating the Long-Term Debt Coverage Ratio, capitalized interest shall be counted as income.

Long-Term Indebtedness means any Additional Indebtedness of the Borrower and the School other than Short-Term Indebtedness and indebtedness subordinate to the Series 2021 Bonds.

Loan Payment Date shall mean the fifteenth (15th) day of each January, March, May, July, September and November, commencing July 15, 2021 (or, if any such day shall not be a Business Day, the immediately preceding Business Day).

Management Consultant means an Independent professional firm or corporation hired by an Institution, and acceptable to the Majority Holders, pursuant to Section 12 of the School Lease.

Maximum Annual Debt Service means, as of any date of calculation, the highest principal and interest payment requirements with respect to all Long-Term Indebtedness of the Borrower outstanding for any succeeding Fiscal Year, and, for such purposes, any one or more of the following rules shall apply:

(a) **Committed Take Out** - if such Person has received a binding commitment, within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to refund or purchase any of its Long-Term Indebtedness at its maturity (or, if due on demand, or payable in respect of any required purchase of such Long-Term Indebtedness by such Person, at any date on which demand may be made), then the portion of the Long-Term Indebtedness committed to be refunded or purchased shall be excluded from such calculation and the principal of (and premium, if any) and interest on the Long-Term Indebtedness incurred for such refunding or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the maturity or purchase date of the Long-Term Indebtedness to be refunded or purchased, shall be added;

(b) **Pro Forma Refunding** - in the case of Balloon Debt, if the Person obligated thereon shall deliver to the Trustee a certificate of a nationally recognized firm of investment bankers or financial consultants dated within 90 days prior to the date of delivery of such certificate to the Trustee stating that financing at a stated interest rate (which shall not be less than the *Bond Buyer* Revenue Bond Index or, if the *Bond Buyer* Revenue Bond Index is unavailable, a comparable index chosen by the Trustee) with a stated maturity not greater than 35 years is reasonably attainable (and such opinion is reasonably acceptable to the Trustee) on the date of such certificate to refund any of such Balloon Debt, then for the purpose of calculating what future annual debt service requirements will be, any installment of principal of (and premium, if any) and interest and other debt service charges on such Balloon Debt that could so be refunded shall be excluded from such calculation and the principal plus interest of the refunding debt shall be evenly allocated over the life of the refunding debt with equal principal payments plus interest deemed due each year;

(c) **Prefunded Payments** - principal of (and premium, if any) and interest and other debt service charges on debt, or portions thereof, shall not be included in the computation of Maximum Annual Debt Service for any Fiscal Year for which such principal, premium, interest, or other debt service charges are payable from funds irrevocably deposited or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust or escrowed with the Trustee, or any Person approved by the Trustee);

Net Income Available for Debt Service means, for any period of determination thereof, Gross Revenues of the Borrower or the School for such period, plus all interest earnings on moneys held in the Debt Service Reserve Fund established under the Indenture, minus the Borrower's or the School's total Operating Expenses for such period but excluding (i) any profits or losses which would be regarded as extraordinary items under GAAP, (ii) cancellation of indebtedness income, (iii) proceeds of Bonds or any other Indebtedness permitted by the Loan Agreement, (iv) proceeds of insurance policies, other than the policies for business interruption insurance, maintained by or for the benefit of the Borrower or the School, the proceeds of any sale, transfer or other disposition of the New Facility or any other of the Borrower's assets by the Borrower, and any condemnation or any other damage award received by or owing to the Borrower and (v) interest expense.

Operating Expenses means fees and expenses of the Borrower or the School, including maintenance, repair expenses, utility expenses, real estate taxes, insurance premiums, administrative and legal expenses, miscellaneous operating expenses, advertising and promotion costs, payroll expenses (including taxes), the cost of material and supplies used for current operations of an Institution, the cost of vehicles, equipment leases and service contracts, taxes upon the operations of the Borrower or the School not otherwise mentioned herein, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which may be reasonably be expected to be incurred in accordance with GAAP, all in such amounts as reasonably determined by the Borrower or the School; provided however, "Operating Expenses" shall not include (i) those expenses which are actually paid from any revenues of the Borrower or the School which are not Gross Revenues, (ii) spending for items accounted for as capital expenditures under GAAP, (iii) expenses or other amounts paid into and from the Repair and Replacement Fund, or (iv) replenishments of the Debt Service Reserve Fund.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with Article X of the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund, either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys, in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or Redemption Date, which payment or Redemption Date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III of the Indenture, provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or the Loan Agreement, Bonds owned by the Borrower or the School shall be disregarded and deemed not to be Outstanding, except that, in determining

whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is the Borrower or the School.

Repair and Replacement Fund Requirement shall mean an amount equal to \$100,000 to be funded in equal monthly installments over five (5) years from the Closing Date. See "APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE" for certain definitions used in this Official Statement relating to the Loan Agreement, the Indenture, the School Lease and the Mortgage.

The Indenture

The Series 2021 Bonds are to be issued pursuant to the Indenture and will be equally and ratably secured thereby. As security for the Series 2021 Bonds, the Issuer has pledged and assigned to the Trustee the Trust Estate, which includes: (i) all right, title and interest of the Issuer in and to the Loan Agreement, including all loan payments, revenues and receipts payable or receivable thereunder (other than the Issuer's Reserved Rights); (ii) all right, title and interest of the Issuer in and to the Promissory Notes; and (iii) all moneys and securities from time to time held by the Trustee under the Indenture (other than the Rebate Fund and the Repair and Replacement Fund). The Indenture provides that all Series 2021 Bonds issued thereunder shall be special limited revenue obligations of the Issuer, payable solely from and secured solely by the Trust Estate. Pursuant to the Mortgage, the Borrower will grant a mortgage lien on and security interest in the New Facility to the Trustee and the Issuer, and the Issuer will assign its interest in the Mortgage to the Trustee pursuant to an Assignment of Mortgage (the "Assignment of Mortgage"). In the Loan Agreement, the Borrower will covenant not to further encumber the New Facility other than for certain Permitted Encumbrances without the prior written consent of the Issuer and the Trustee. See "APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Indenture of Trust" in this Official Statement.

Debt Service Reserve Fund

The Indenture creates the Debt Service Reserve Fund for the benefit of the Series 2021 Bonds. If on any Interest Payment Date or Redemption Date on the Series 2021 Bonds, the amount in the Interest Account of the Bond Fund (after taking into account amounts available to be transferred to the Interest Account of the Bond Fund from the Project Fund) shall be less than the amount of interest then due and payable on the Series 2021 Bonds, or if on any Principal Payment Date on the Series 2021 Bonds the amount in the Principal Account of the Bond Fund shall be less than the amount of principal of the Series 2021 Bonds then due and payable, or if on any Sinking Fund Installment payment date for the Series 2021 Bonds the amount in the Sinking Fund Installment Account of the Bond Fund shall be less than the amount of the Sinking Fund Installment then due and payable on the Series 2021 Bonds, in each case, after giving effect to all payments received by the Trustee in immediately available funds by 10:00 a.m. (New York City time) on such date from or on behalf of the Borrower or the Issuer on account of such interest, principal or Sinking Fund Installment, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund , first, to such Interest Account, second, to such Principal Account, and third, to such Sinking Fund Installment Account, all to the extent necessary to make good any such deficiency.

In the event that the Borrower shall deliver written notice to the Trustee of its intention to redeem the Series 2021 Bonds, the Borrower may direct the Trustee to apply such amounts in the Debt Service Reserve Fund to effect such redemption such that the amount remaining in the Debt Service Reserve Fund upon such redemption shall not be less than the reduced Debt Service Reserve Fund Requirement as will be applicable to the remainder of the Series 2021 Bonds Outstanding.

Defeasance

Upon certain terms and conditions specified in the Indenture, including provision for the payment of such Bonds, the Series 2021 Bonds or portions thereof will be deemed to be paid and the security provided in the Indenture, the Mortgage and the other Security Documents may be discharged prior to maturity or redemption of the Series 2021 Bonds. In that case, the Series 2021 Bonds will be secured solely by the cash and securities deposited with the Trustee for such purpose. See “APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Indenture of Trust” in this Official Statement.

Waivers of Default

The Trustee shall waive any default under the Indenture and its consequences and rescind any declaration of acceleration only upon the written request of the Majority Holders); provided, however, that there shall not be waived without the consent of the Holders of all the Bonds Outstanding (a) any default in the payment of the principal of any Outstanding Bonds at the date specified therein or (b) any default in the payment when due of the interest on any such Bonds, unless, prior to such waiver, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect of which such default shall have occurred, and all arrears of payment of principal when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Borrower, the School, the Developer, the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights under the Indenture, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Issuer Approval of Non-Foreclosure Remedies

Notwithstanding any other remedy or other action available under the Indenture or otherwise under any other Security Document or at law, no remedy or other action (whether exercised by the Trustee or the Holders of the Bonds) shall have the effect of (x) continuing the exemption from the mortgage recording tax of the Mortgage upon any restructuring of the underlying indebtedness secured by the Mortgage (a “**Mortgage Restructuring**”), (y) modifying or terminating the Indenture or the Loan Agreement (other than a termination of the Indenture in connection with the retirement of all of the Outstanding Bonds in accordance with the discharge provisions of the Indenture) (a “**Security Document Action**”) or (z) substituting for the Borrower and/or the School, as applicable, a new Entity to either be a counterparty to the Issuer under the Loan Agreement or to use all or a portion of the New Facility (a “**Substitute Entity**”), unless, in either case, all material facts relating to either the Mortgage Restructuring, the Security Document Action and/or the Substitute Entity shall have been set forth in a writing delivered to the Issuer and (i) the Mortgage Restructuring, the Security Document Action and/or the Substitute Entity shall be approved in writing by the Issuer, such approval not to be unreasonably withheld or delayed (and which approval may, in the sole discretion of the Issuer, be subject to action by the Issuer’s Board of Directors), and (ii) there shall be delivered to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such Mortgage Restructuring, Security Document Action and/or Substitute Entity shall not cause the interest on any Outstanding Tax-Exempt Bonds to become subject to federal income taxation by reason

of any such Mortgage Restructuring, Security Document Action and/or Substitute Entity. For the avoidance of doubt, no Issuer consent is required by this provision for the commencement of a foreclosure action under the Mortgage. In connection with the retirement or surrender for cancellation of all of the Outstanding Bonds (other than as a result of the payment in full of all Outstanding Bonds), the Trustee agrees to provide written notice to the Issuer of such retirement or cancellation promptly upon the earlier of (i) the Trustee's receipt of direction to effectuate such retirement or cancellation, and (ii) the Trustee's receipt of surrendered Bonds for cancellation, but in no event later than fourteen (14) Business Days after the occurrence of the event set forth in clause (i) or (ii).

RISK FACTORS

No person should purchase any Series 2021 Bonds without carefully reviewing the following information, which summarizes some, but not all, factors that should be carefully considered before such purchase.

Nature of Special, Limited Obligations

THE SERIES 2021 BONDS ARE SPECIAL LIMITED REVENUE OBLIGATIONS OF THE ISSUER, PAYABLE AS TO PRINCIPAL, SINKING FUND INSTALLMENTS, REDEMPTION PRICE AND INTEREST, SOLELY FROM THE TRUST ESTATE AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE INDENTURE. NEITHER THE STATE NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY, IS PLEDGED TO SUCH PAYMENT OF THE SERIES 2021 BONDS. THE SERIES 2021 BONDS WILL NOT BE PAYABLE OUT OF ANY FUNDS OF THE ISSUER OTHER THAN THOSE PLEDGED THEREFOR PURSUANT TO THE INDENTURE. THE SERIES 2021 BONDS WILL NOT GIVE RISE TO A PECUNIARY LIABILITY OR CHARGE AGAINST THE CREDIT OR TAXING POWERS OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE CITY. NO RECOURSE WILL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OR REDEMPTION PRICE OF, SINKING FUND INSTALLMENTS FOR, OR INTEREST ON, THE SERIES 2021 BONDS AGAINST ANY MEMBER, OFFICER, DIRECTOR, EMPLOYEE, AGENT OR REPRESENTATIVE OF THE ISSUER. THE ISSUER HAS NO TAXING POWER.

Dependence on Borrower's Ability to Pay Loan Payments; Ability of School to Pay the School Lease Rental Payments

Payment of principal of, redemption premium, if any, and interest on, the Series 2021 Bonds is intended to be made from Loan Payments made by the Borrower under the Loan Agreement and the Promissory Notes, except to the extent payment is intended to be made from other amounts held under the Indenture such as Series 2021 Bond proceeds or investment earnings. The Borrower has no significant assets or business other than the assets and business related to the New Facility. The ability of the Borrower to make Loan Payments will depend on the Borrower's ability to generate revenues sufficient to pay the Loan Payments, which will primarily depend on the ability of the School to make payments under the School Lease. See "APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL" and "APPENDIX B—BUDGET PROJECTION" in this Official Statement.

The School's general revenues are a combination of state payments provided under several State and federal programs, including the Education Aid payments and Facilities Access Payments. See "CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK" in this Official Statement. Facilities

Access Payments alone will likely be insufficient to make the total payments due under the School Lease. Prior enrollment history of the School is no guaranty of future enrollment and revenues. See “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL” and “APPENDIX B—BUDGET PROJECTION” in this Official Statement.

The amounts and the timing of future revenues of the School cannot be determined with assurance. Prior revenues and expenditures of the School are no guaranty as to future revenues and expenditures of the School. Any event that would cause a delay, reduction or elimination of Education Aid or Facilities Access Payments would have a material adverse effect on the ability of the School to pay the School Lease Rental Payments under the School Lease and therefore on the ability of the Borrower to make payments under the Loan Agreement and the Promissory Notes representing debt service on the Series 2021 Bonds.

No Taxing Authority; Dependence on Education Aid Payments and Facilities Access Payments

The Borrower and the School do not possess any taxing authority and the School is substantially dependent upon the State to continue to provide funding for public charter schools. The obligation of the State under the Charter and State law to fund the School is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. In the event the State were to withhold the payment of money from the School for any reason, even a reason that is ultimately determined to be invalid or unlawful, it is likely that the School would be forced to cease operations.

Failure of New York City Department of Education to Make Education Aid Payments or Facilities Access Payments to the School

The regulations adopted by the New York State Commissioner of Education (the “**Commissioner**”) provide that a charter school shall notify the Commissioner in the event that a school district (the NYC DOE on behalf of the New York City Community School District 7 with respect to the School) fails to make a required bi-monthly payment of Education Aid to a charter school such as the School. Such notice shall be given subsequent to the date a bi-monthly payment is due, but in no event later than May 31 of the school year in which such payments are due. Upon receipt of such notice, the Commissioner must certify to the State Comptroller (the “**Comptroller**”) the amount of the unpaid obligation of the school district, which said amount shall be deducted from any Education Aid payment due to such school district (the NYC DOE on behalf of the New York City Community School District 7 with respect to the School) and instead will be paid directly by the Comptroller to the School. There can be no assurance of the timing of receipt of any such amounts so paid by the Comptroller. The regulations that refer to payments required by Section 2856 of the Charter Schools Act (Charter School Basic Tuition and federal/state aid attributable to students with disabilities) do not directly address Facilities Access Payments that are described in Section 2853 of the Charter Schools Act. The NYC DOE letter notifying the School that it will receive Facilities Access Payments stated that the Facilities Access Payments will be paid consistently with the bi-monthly basis outlined in Section 2856(1)(b) of the Charter Schools Act.

Delay in or Termination or Reduction of Education Aid or Facilities Access Payments

Even though New York State is obligated under its Constitution to provide for the maintenance and support of a system of free common schools, it is not obligated either to continue to authorize the operation of charter schools or to continue its current system of Education Aid or Facilities Access Payments. Any change in the Charter Schools Act or in the provisions of the New York State Education Law relating to the appropriation of Education Aid or Facilities Access Payments or failure by the State Legislature to appropriate funds sufficient to fund the operation of charter schools could have a material adverse effect on the ability of the School to make the School Lease Rental Payments required under the School Lease.

Although State law prescribes a detailed process applicable to the adoption by the State of its annual budget, the annual budgetary process has resulted in recent years in the adoption of annual budgets later, and in some instances substantially later, than May 1, which is the start of the State's fiscal year. No assurance can be given as to the date of adoption of future annual budgets or as to the availability of funds for public education purposes while the annual budget is pending. In addition, the State has had well publicized budget issues and deficits, and such State budgetary pressures could continue and cause revisions to the funding of charter schools in the State.

Impact of the Covid-19 Pandemic on the Finances of the School

The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus, has been declared a pandemic by the World Health Organization. The Governor of the State of New York and the Mayor of the City of New York have declared states of emergency in their respective jurisdictions. Since declaring a state of emergency in New York State on March 7, 2020, Governor Andrew Cuomo has issued numerous Executive Orders suspending or modifying dozens of state and local laws and has issued numerous directives to aid the State's response.

By order of Governor Cuomo ("New York State on PAUSE"), as of Sunday, March 22, 2020, all essential businesses Statewide were required to be closed, among other restrictive social distancing and related measures. Based on metrics established by the State, the State has begun and is expected to continue to lift certain PAUSE restrictions on a regional basis in phase as each region meets the criteria outlined by the Governor to protect public health as businesses reopen. PAUSE restrictions began to be lifted in New York City on June 8, 2020.

The continued spread of COVID-19 and the continued impact on social interaction, travel, economies and financial markets may adversely impact the School's finances and operations. The continued spread of COVID-19 and its related impacts may (a) adversely affect the ability of the School to conduct its normal operations, and /or may adversely affect the cost of, or revenue derived from, operations, or both, (b) adversely affect financial markets generally and consequently adversely affect the returns on, and value of, the Schools' investments and liquidity and (c) adversely affect the secondary market for, and value of, the Series 2021 Bonds. In addition, such factors may limit the sources of liquidity available in ordinary markets, and adversely impact the School's ability to access capital markets generally. The School is monitoring developments and the directives of federal, states and local officials to determine what additional precautions and procedures may need to be implemented by the School in the event of the continued spread of COVID-19. The full impact of COVID-19 and the scope of any adverse impact on the School's finances and operations cannot be fully determined at this time. Other adverse consequences of COVID-19 may include, but are not limited to, decline in net tuition revenue. While the School has defined and is considering a series of financial mitigation strategies to address many of the known costs of COVID-19, the continued risk could adversely impact the School's finances.

Impact of the COVID-19 Pandemic on the Finances of the State

Provisions in the State's 2020-2021 Enacted Budget grant the Budget Director the authority to reduce "aid-to-localities" appropriations and disbursements by any amount needed to achieve a balanced budget, as estimated by the New York Division of the Budget. Aid-to-localities is a broad spending category that includes funding for health care, K-12 schools, and higher education as well as support for local governments, public transit systems, and the State's not-for-profit partners. In addition, the Budget Director is authorized to withhold and reduce specific local aid payments during the fiscal year. The State's Enacted Budget is deemed out of balance from the fiscal year, and the Budget Director's powers are activated, if actual tax receipts are less than 99 percent of estimated tax receipts, or actual disbursements are more than 101 percent of estimated disbursements, as measured at three points during the year (June-

30, June-June 30, and July 1 – December 31). The State’s 2020-2021 Enacted Budget is premised on the assumption that the Budget Director’s powers will be activated and across-the-board and targeted reductions to local aid programs will be taken to close a substantial portion of the State fiscal year 2021 budget gap caused by the receipts shortfall. Due principally to the COVID-19 pandemic, reduced receipts are expected through State fiscal year 2024. According to the four year financial plan released by the State on May 8, 2020, as a result of the COVID-19 pandemic, State spending will be significantly reduced. Such reductions will include reductions to “aid to localities” which includes State aid to school districts, including the School District. Any significant reductions or delays in the payment of State aid could adversely affect the financial condition of school districts in the State. The State has publicly announced that COVID-19 will have a significant negative impact on the State’s revenues and 2020-21 budget.

SED posted an announcement on its State aid website noting that on August 13, 2020, the Division of the Budget (DOB) issued the FY 2021 First Quarterly State Budget Financial Plan Update which notes that, in the absence of Federal action since the enactment of the FY 2021 budget, DOB began withholding 20% of most local aid payments in June, and that all or a portion of these withholds may be converted to permanent reductions, depending on the size and timing of new Federal aid, if any.

The announcement further noted that in July, DOB began approving General Support for Public Schools (GSPS) payments to school districts (including 3609-a General Aid, 3609-b Excess Cost Aid, and 3909d- BOCES Aid payments) at 80% of the otherwise scheduled amounts.

DOB’s Updated Financial Plan includes \$8.2 billion in recurring local aid reductions, and states that the earliest DOB expects to transmit a detailed aid-to-localities reduction plan to the Legislature is late in the second quarter of the State’s FY 2021, and that, in the absence of unrestricted Federal aid, DOB will continue to withhold a range of payments through the second quarter of FY 2021.

School districts across the State have requested that the State Legislature adopt legislation that would allow school districts to reduce payments to charter schools to the extent that State aid paid to school districts is reduced pursuant to the provisions in the State’s 2020-2021 Enacted Budget. There can be no assurance that such legislation will not be introduced, adopted by the State Legislature and signed into law by the Governor.

Budget Projection

The Budget Projection prepared by the School and contained in “APPENDIX B—BUDGET PROJECTION” is based upon certain assumptions made by the School. No assurance can be given that the results described in the Budget Projection will be achieved. The School does not intend to issue an additional Budget Projection and, accordingly, there are risks inherent in using the Budget Projection in the future as the Budget Projection becomes outdated. The Budget Projection is only for fiscal years ending June 30, 2021, through June 30, 2025, and does not cover the entire period during which the Series 2021 Bonds may be outstanding. See “APPENDIX B—BUDGET PROJECTION” in this Official Statement.

No guaranty can be made that the Budget Projection will correspond with the results actually achieved in the future by the School because there is no assurance that actual events will correspond with the assumptions made by the School. For example, the Budget Projection makes certain assumptions as to continued demand for educational facilities such as the School and future enrollment at the School. Actual operating results of the School may be affected by many factors, including, but not limited to, increased costs, lower than anticipated enrollment, reduced State funding, changes in demographic trends, and local and general economic conditions. The Budget Projection, which appears in “APPENDIX B—BUDGET PROJECTION” in this Official Statement, should be read in its entirety.

Termination or Revocation of Charter

The Charter may be terminated by the Board of Regents or the Authorizer for the grounds set forth in the Charter Schools Act. The Charter also provides that it may be terminated and revoked by mutual agreement of the parties. For more information regarding conditions under which the Charter may be revoked, the revocation procedure, and other information regarding the Charter and the Charter Schools Act, see “CHARTER SCHOOL FUNDING IN THE STATE OF NEW YORK,” “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL—INTRODUCTION—The Charter Contract,” and “APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW” in this Official Statement.

While the School believes that it is in good standing with the Authorizer and is in material compliance with the Charter, no assurance can be given that the School will be able to maintain such good standing in the future. In addition, even though the School does not anticipate any non-renewal or revocation of its Charter, there can be no assurance that the Authorizer or the Board of Regents will not revoke the Charter in the future.

No Pledge of Revenues by the School

Under New York law, the School may not legally assign or pledge any interest in public education aid payable to the School pursuant to the Charter Schools Act to secure its obligations under the School Lease.

Factors Associated with Education

There are a number of factors affecting schools in general, including the School, that could have an adverse effect on the School’s financial position and its ability to make the payments required under the School Lease, and therefore on the ability of the Borrower to make Loan Payments under the Loan Agreement. These factors include, but are not limited to (i) the ability to attract a sufficient number of students; (ii) future legislation and regulations affecting charter schools and the educational system in general; (iii) increasing costs of compliance with federal or State regulatory laws or regulations, including, without limitation, laws or regulations concerning environmental quality, work safety and accommodating persons with disabilities; (iv) increased costs of attracting and retaining or a decreased availability of a sufficient number of teachers, including as related to any unionization of the School’s work force with consequent impact on wage scales and operating costs of the School; (v) cost and availability of insurance for charter schools in the State; and (vi) changes in existing statutes pertaining to the powers of the School and legislation or regulations which may affect program funding. The School cannot assess or predict the ultimate effect of these factors on its operations or the financial results of operations.

Competition for Students

The School competes for students primarily within the geographic area of New York City Community School District No. 7 (the “**7th District**”) and other surrounding districts, and with other public schools and charter schools within the Bronx, New York area. In the view of the School, these schools are representative of the schools with which the School competes for students. See “APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL—Service Area” and “Competing Schools” in this Official Statement. No assurance can be given that the School will attract and retain the number of students that are needed to produce revenue necessary to pay the principal of and interest on the Series 2021 Bonds, or that additional schools will not be created in or near the School’s service area.

Foreclosure Delays and Deficiency

Should Loan Payments be insufficient to pay the principal of and interest on the Series 2021 Bonds, the Trustee may seek to foreclose the Mortgage and sell the New Facility securing the Series 2021 Bonds. However, no assurance can be given that the value of the New Facility at the time of such foreclosure or sale would be sufficient to meet all remaining principal and interest payments on the Series 2021 Bonds. In addition, the time necessary to institute and complete such proceedings could substantially delay receipt of funds from a foreclosure or sale. There could also be delays in regaining possession of the New Facility from the Borrower and the School in the event of any default or dispute under the Loan Agreement. Under the Subordination, Non-Disturbance and Attornment Agreement (the “**SNDA**”) dated the Closing Date, by and among the School, the Borrower and the Trustee, so long as there is no event of default under the School Lease, notwithstanding the existence of an Event of Default under the Indenture, foreclosure will not disturb the School’s right of possession and leasehold interest under the School Lease.

Effect of Federal Bankruptcy Laws on Security for the Series 2021 Bonds

Bankruptcy proceedings and equity principles may delay or otherwise adversely affect the enforcement of Bondholders’ rights in the property granted as security for the Series 2021 Bonds. Furthermore, if the security for the Series 2021 Bonds is inadequate for payment in full of the Series 2021 Bonds, bankruptcy proceedings and equity principles may also limit any attempt by the Trustee to seek payment from other property of the Borrower, if any. See “**ENFORCEABILITY OF OBLIGATIONS**” in this Official Statement. Also, federal bankruptcy law permits adoption of a reorganization plan, even though it has not been accepted by the holders of a majority in the aggregate principal amount of the Series 2021 Bonds, if the Bondholders are provided with the benefit of their original lien or the “indubitable equivalent.” In addition, if the bankruptcy court concludes that the Bondholders have “adequate protection,” it may (i) substitute other security subject to the lien of the Bondholders, and (ii) subordinate the lien of the Bondholders (a) to claims by persons supplying goods and services to the Borrower after bankruptcy and (b) to the administrative expenses of the bankruptcy proceeding. The bankruptcy court may also have the power to invalidate certain provisions of the Mortgage that make bankruptcy and related proceedings by the Borrower an event of default thereunder.

Key Personnel

The School’s creation, curriculum, educational philosophy, and day-to-day operations reflect the vision and commitment of the individuals who serve on the School’s Board of Trustees and as the School’s administrators (the “**Key Personnel**”). The loss of any Key Personnel could adversely affect the School’s operations, its ability to attract and retain students and ultimately its financial results. For more information regarding the School’s Key Personnel, see “**APPENDIX B—ACADEMIC LEADERSHIP CHARTER SCHOOL—Governance and Administration**” in this Official Statement.

Additional Indebtedness

In the School Lease, the Borrower and the School will each covenant that it will only incur Indebtedness in accordance with the restrictions imposed by the School Lease. No assurance can be given that the Issuer will not issue Additional Bonds for the benefit of the Borrower or the School will not incur Additional Indebtedness in the future. See “**SECURITY AND SOURCES OF PAYMENT FOR THE SERIES 2021 BONDS—Covenants of the School; Additional Indebtedness**” and “**APPENDIX D—FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE—Form of Indenture of Trust**” in this Official Statement.

Forward-Looking Statements

This Official Statement contains certain statements that are “forward-looking” statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical facts included in this Official Statement, including, without limitation, statements that use terminology such as “estimate,” “plan,” “budget,” “expect,” “intend,” “anticipate,” “believe,” “may,” “will,” “continue,” and similar expressions, are forward-looking statements. These forward-looking statements include, among other things, the discussions related to the School’s operations and expectations regarding student enrollment, future operations, revenues, capital resources, and expenditures for capital projects. Although the Borrower and the School believe that the assumptions upon which the forward-looking statements contained in this Official Statement are based are reasonable, any of the assumptions could prove to be inaccurate and, as a result, the forward-looking statements based on those assumptions also could be incorrect. All phases of the operations of the Borrower and the School involve risks and uncertainties, many of which are outside the control of the Borrower and the School and any one of which, or a combination of which, could materially affect the results of the Borrower’s or the School’s operations and whether the forward-looking statements ultimately prove to be correct. Factors that could cause actual results to differ from those expected include, but are not limited to, general economic conditions such as inflation and interest rates, both nationally and in New York where the New Facility is located; the willingness of the State to fund charter school operations at present or increased levels; competitive conditions within the School’s market, including the acceptance of the education services offered by the School; lower enrollments than projected; unanticipated expenses; the capabilities of the School’s management; changes in government regulation of the education industry; future claims for accidents at the New Facility and the extent of insurance coverage for such claims; and other risks discussed in this Official Statement. THE BUDGET PROJECTION CONTAINED IN APPENDIX B ATTACHED TO THIS OFFICIAL STATEMENT IS NOT A HISTORICAL STATEMENT OF FINANCIAL PERFORMANCE OF THE SCHOOL, BUT IS A FORWARD LOOKING FORECAST OF FUTURE, PROJECTED FINANCIAL PERFORMANCE OF THE SCHOOL.

No representation or assurance can be given that the School will realize revenues in an amount sufficient to make the required payments under the School Lease or, therefore, that the Borrower will realize revenues in amounts sufficient to make the required payments under the Loan Agreement. No market study or demand analysis has been prepared for the School to analyze the existing or future demand for the School’s charter school educational services. The realization of future revenues is dependent upon, among other things, the matters described in the foregoing paragraphs and future changes in economic and other conditions that are unpredictable and cannot be determined at this time. Neither the Issuer nor the Underwriter make any representation as to the accuracy of the contained herein or as to the assumptions on which the projections are based.

Property Tax Exemption

Under present State law and rulings, property used for charter school purposes is exempt from property taxes levied by political subdivisions of the State so long as such property is used for the exempt purpose of the School. The School is required to pay property taxes under the School Lease. After acquiring a leasehold interest in the New Facility, the School and/or the Borrower must file an application for exemption from real property taxes based on the fact that the School is a charitable organization using the property in connection with its charitable purposes. Assuming such exemption is granted, such property tax exemption will be retroactive to the date the Borrower acquired the Land. Therefore, it is anticipated that from and after the date of acquisition of the Land, the Borrower will be exempt from property taxes with respect to the Land. Nevertheless, such laws, regulations and rulings are subject to change, and no assurance can be given that any future change in exempt status would not have a material adverse effect on

the Borrower and the School. If the Borrower or the School is required to pay property taxes with respect to the New Facility in the future, it would have a negative impact on the cashflow of the Borrower and the School. The School has assumed for purposes of the Budget Projection that the Borrower and School will be exempt from property taxes with respect to the New Facility; however, no assurance can be given that such exemption will be granted.

Tax-Exempt Status of the Borrower

The Borrower is a New York limited liability company whose sole member is the School. The School is a New York not-for-profit corporation. The School has been determined by the Internal Revenue Service to be an organization described in Section 501(c)(3) of the Code. Under present federal law, regulations and rulings, the income and revenue of not-for-profit, 501(c)(3) qualified exempt organizations are exempt from federal income tax, except for any unrelated business income as defined in the Code, and their revenues are exempt from the State sales tax except for certain services. If the School fails to meet the requirements necessary to preserve its status as a not-for-profit corporation and a tax-exempt charitable organization under Section 501(c)(3) of the Code, the Borrower, as a disregarded entity of the School for federal and state tax purposes, could experience expenses which are greater than those projected in “APPENDIX B—BUDGET PROJECTION” and revenues which are lower than those projected in “APPENDIX B—BUDGET PROJECTION”, which would adversely affect the Borrower’s ability in the future to pay the Loan Payments due under the Loan Agreement and the Promissory Notes. In addition, if the School were to lose its status as a not-for-profit corporation and a tax-exempt organization, the tax-exempt status of the Series 2021 Bonds would also be adversely affected. The School will covenant in the Tax Regulatory Agreement that it will not take any actions or fail to take any actions, the result of which would adversely affect the School’s status as a not-for-profit corporation and its status as a tax-exempt charitable organization under Section 501(c)(3) of the Code.

Tax-Exempt Status of the School

The School is a public charter school and a New York not-for-profit education corporation. The School has been determined by the Internal Revenue Service to be an organization described in Section 501(c)(3) of the Code. Under present federal law, regulations and rulings, the income and revenue of not-for-profit, 501(c)(3) qualified exempt organizations are exempt from federal income tax, except for any unrelated business income as defined in the Code, and their revenues are exempt from the State sales tax except for certain services. If the School fails to meet the requirements necessary to preserve its status as a not-for-profit education corporation and a tax-exempt charitable organization under Section 501(c)(3) of the Code, the School could experience expenses which are greater than those projected in “APPENDIX B—BUDGET PROJECTION” and revenues which are lower than those projected in “APPENDIX B—BUDGET PROJECTION”, which would adversely affect the School’s ability in the future to pay the School Lease Rental Payments due under the School Lease with respect to Series 2021 Bonds. In addition, if the School were to lose its status as a not-for-profit education corporation and a tax-exempt organization, the tax-exempt status of the Series 2021 Bonds would also be adversely affected. The School will covenant in the Loan Agreement that it will not take any actions or fail to take any actions, the result of which would adversely affect the School’s status as a not-for-profit corporation and its status as a tax-exempt charitable organization under Section 501(c)(3) of the Code.

IRS Compliance Program

The Internal Revenue Service has an active program of conducting examinations of tax-exempt bonds through its Tax-Exempt and Government Entities Division. Bond Counsel will render an opinion with respect to the tax-exempt status of interest on the Series 2021 Bonds, as described under the caption “CERTAIN TAX MATTERS—Series 2021 Bonds” in this Official Statement. However, neither the

Borrower nor the School has sought, and neither is expected to seek, a ruling from the Internal Revenue Service with respect to the tax-exempt status of the Series 2021 Bonds. No assurance can be given that the Internal Revenue Service will not examine the Series 2021 Bonds. If the Internal Revenue Service examines the Series 2021 Bonds, such examination may have an adverse impact on the marketability and price of the Series 2021 Bonds. See “CERTAIN TAX MATTERS—Series 2021 Bonds” in this Official Statement.

Tax-Exempt Status of the Series 2021 Bonds

The tax-exempt status of the interest on the Series 2021 Bonds is conditioned upon the School, the Borrower and the School complying with the requirements of the Code and applicable Treasury Regulations as they relate to the Series 2021 Bonds. Failure of the Borrower or the School to comply with the terms and conditions of the Loan Agreement, the Tax Regulatory Agreement, the Indenture, the School Lease and other documents as described herein may result in the loss of the tax-exempt status of the interest on the Series 2021 Bonds retroactive to the date of issuance of the Series 2021 Bonds. If interest on the Series 2021 Bonds should become includable in gross income for purposes of federal income taxation, the market for and value of the Series 2021 Bonds would be adversely affected. See “CERTAIN TAX MATTERS—Series 2021 Bonds” in this Official Statement.

Resale of Series 2021 Bonds/Lack of Secondary Market

There is no guarantee that a secondary trading market will develop for the Series 2021 Bonds. Consequently, prospective bond purchasers should be prepared to hold their Series 2021 Bonds to maturity or prior redemption.

Changes in Law; Annual Appropriation; Inadequate Education Aid Payments

Future changes to the Charter Schools Act by the State Legislature could be adverse to the financial interests of the School and the Borrower and could adversely affect the security and sources of payment for the Series 2021 Bonds. There can be no assurance given that the State Legislature will not in the future amend the Charter Schools Act in a manner which is adverse to the interests of the owners of the Series 2021 Bonds.

Like in many states, lawsuits are occasionally filed in New York challenging the State’s system of funding public schools. The outcome of any such public school funding cases in the State in the future cannot be known.

New York may experience downturns in its economy and tax revenues in the future. The provisions of the Charter Schools Act are subject to amendment by the State Legislature, including the reduction of State funding, which could adversely affect the School. STATE BUDGET CONSIDERATIONS MAY ALSO ADVERSELY AFFECT APPROPRIATIONS FOR CHARTER SCHOOL FUNDING.

Construction Risk Relating to the Project

Construction, equipping and furnishing of a new building such as the New Facility is subject to the risks of cost overruns and delays due to a variety of factors. Any delay in completion of the New Facility could have an adverse effect on the School and the School’s operations at the New Facility.

The New Facility is expected to be completed by the start of the 2023-2024 school year. Whether the New Facility will be completed on schedule depends upon a large number of factors, many of which may be beyond the control of the Borrower and the general contractor for the New Facility. These include,

but are not limited to, adverse weather, strikes, delays in the delivery of or shortages of materials, delays in the issuance of required building permits, environmental restrictions or similar unknown or unforeseeable contingencies. Although construction work will be inspected periodically, there can be no assurance that the New Facility will conform to construction specifications or state or local regulations. The occurrence of any of the foregoing could result in increases in construction costs or considerable delays, in, or the complete impossibility of, the completion of the New Facility.

Damage or Destruction

The Loan Agreement, the Mortgage and the School Lease require that the New Facility be insured against certain risks. There can be no assurance that the amount of insurance required to be obtained with respect to the New Facility will be adequate or that the cause of any damage or destruction to the New Facility will be as a result of a risk which is insured. Further, there can be no assurance of the ongoing creditworthiness of the insurance companies from which the Borrower and the School obtain insurance policies. The Borrower and the School each believe that the risks associated with its properties and its operations are adequately provided for through the insurance policies it maintains. The Borrower and the School will provide property insurance on the New Facility through a standard commercial insurance policy.

Environmental Risks

The New Facility is subject to various federal, State and local laws and regulations relating to human health and safety and the environment. In general, these laws and regulations could require the Borrower as owner of the New Facility to implement mitigation to reduce the environmental impacts of the New Facility or to remediate adverse environmental conditions on or relating to the New Facility, regardless of whether arising from preexisting conditions or arising because of the activities conducted in connection with the ownership and operation of the New Facility. Moreover, these laws and regulations can and often do change through legislative, judicial, or regulatory activities.

On January 21, 2016, PVE Sheffler, LLC submitted a Phase I Environmental Site Assessment (“Phase I ESA”) to the Charter School. As recommended by PVE Sheffler, LLC, the Charter School received a vapor intrusion evaluation on February 29, 2016. The evaluation recommended that the Charter School incorporate a barrier compatible with existing compounds into future foundation design, including proper excavation handling and off-site disposal of excavated materials and design and installation of an appropriate vapor mitigation system.

Environmental Regulations and Permitting

Federal, state, and local environmental and health and safety laws, regulations, and standards regulate the New Facility. Conditions or mitigation as required by these laws and regulations can be imposed either through permitting or by audit, any of which could result in increased costs to the School. While the School believes that it is in material compliance with applicable environmental laws for the New Facility, there is no assurance that the School, either under construction or in operation as currently contemplated, is now or will always be in compliance with these regulations or be able to obtain all required construction or operating permits. In addition, the costs incurred by the Borrower with respect to compliance with human health and safety and environmental laws and regulations could adversely affect its financial condition and its ability to own and operate the New Facility.

Hazardous Materials

Hazardous materials laws, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, can and will impose joint and several liability, without regard to fault, for investigation and clean-up costs on persons who have disposed of or released hazardous substances into the environment and on current and former owners and operators of real property (and to any beneficiary of a Mortgage on the New Facility, particularly following any sale or foreclosure proceeding). The Borrower may also be liable for such claims contractually, as the Borrower indemnified the Seller for any and all claims related to hazardous materials as part of the Borrower's acquisition of the Land. The Land is less than one-half of an acre.

Even though the Phase I Report did not show any evidence of recognized environmental conditions for the Land, claims for material costs associated with hazardous materials may arise during the term of the Series 2021 Bonds and could adversely affect the Borrower's financial condition and its ability to own and operate the New Facility. Furthermore, any such claims could result in the imposition of use limitations, such as restrictive covenants, that could impair the ability of the School to operate the New Facility.

No Appraisal

An appraisal of the New Facility will not be conducted until 90 days following the Borrower's receipt of a certificate of occupancy therefor. In the event of a foreclosure of the Mortgage, the value of the New Facility in such event cannot be determined and may be substantially less than the cost of the acquisition, construction, equipping and furnishing of the New Facility, and no assurance that the value received for the New Facility will be sufficient to pay the principal of and interest due on the Series 2021 Bonds.

Enforcement of Remedies

The remedies available to the Trustee or the owners of the Series 2021 Bonds upon an Event of Default under the Indenture or the Loan Agreement are in many respects dependent upon judicial actions which are often subject to discretion and delay. Under existing constitutional and statutory law and judicial decisions, the remedies provided in the Indenture and the Loan Agreement may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Series 2021 Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by the valid exercise of the sovereign powers of the State and the constitutional powers of the United States of America, bankruptcy, reorganization, insolvency, or other similar laws affecting the rights of creditors generally.

Failure to Provide Ongoing Disclosure

The Borrower and the School will enter into the Continuing Disclosure Agreement with School Improvement Partnership as Continuing Disclosure Agent pursuant to Rule 15c2-12, promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the "**Rule**"). Neither the Borrower nor the School has previously been subject to a continuing disclosure undertaking under Rule 15c2-12. Failure by the Borrower or the School to comply with the Continuing Disclosure Agreement and the Rule may adversely affect the liquidity of the Series 2021 Bonds and their market price in the secondary market. See "CONTINUING DISCLOSURE" and "APPENDIX F—FORM OF CONTINUING DISCLOSURE AGREEMENT" in this Official Statement.

Private School Vouchers

Various proposals offering private school vouchers to families to assist with the cost of private schools have been considered by the State Legislature and will likely be introduced again in the future.

Redemption Prior to Maturity

The Series 2021 Bonds are subject to redemption at the option of the Borrower and in the event of certain occurrences. See “THE SERIES 2021 BONDS—Redemption of Series 2021 Bonds” in this Official Statement.

Summary

The foregoing is intended only as a summary of certain risk factors attendant to an investment in the Series 2021 Bonds. In order for potential investors to identify risk factors and make an informed decision, potential investors should be thoroughly familiar with this entire Official Statement including the appendices hereto.

AUDITED FINANCIAL STATEMENTS OF THE SCHOOL

The audited financial statements of the School as of and for the fiscal years ended June 30, 2020, (including June 30, 2019, comparative information) (the “**Audited Financial Statements**”), are included in APPENDIX C to this Official Statement. The Audited Financial Statements were audited by NCheng LLP, Accountants and Advisors, independent auditors, as stated in their report thereon. See “APPENDIX C—AUDITED FINANCIAL STATEMENTS OF THE SCHOOL FOR THE FISCAL YEAR ENDED JUNE 30, 2020 (INCLUDING JUNE 30, 2019 COMPARATIVE INFORMATION)” in this Official Statement.

The summarized comparative information for 2020, 2019 and 2018 was derived from the School’s audited financial statements a portion of which not included in this Official Statement.

| Academic Leadership Charter School | | | |
|---|----------------------|----------------------|----------------------|
| Comparative Statements of Activity | | | |
| FY Ended June 30, | 2020 | 2019 | 2018 |
| Operating Revenue and Support | | | |
| State and local per pupil operating revenue | | | |
| General Education | \$ 9,102,721 | \$ 7,616,230 | \$ 7,545,393 |
| Special Education | 461,095 | 301,950 | 372,407 |
| <u>Facility lease assistance</u> | | | |
| Total State and local per pupil operating revenue | 9,563,816 | 7,918,180 | 7,917,800 |
| Grants, contracts and other support | | | |
| Federal grants | 524,912 | 589,386 | 639,732 |
| State and local grants | 166,104 | 277,275 | 38,954 |
| Interest & Other Income | 417,572 | 385,940 | 181,411 |
| Total Operating Revenue & Other | \$ 10,672,404 | \$ 9,170,781 | \$ 8,777,897 |
| Support Expenses | | | |
| Program Services | | | |
| Regular Education | \$ 3,894,601 | \$ 3,787,518 | \$ 3,737,656 |
| Special Education | 178,981 | 133,364 | 160,419 |
| <u>Management & General</u> | | | |
| Total Program Expenses | \$ 4,073,582 | \$ 3,920,882 | \$ 3,898,075 |
| Supporting services | | | |
| Management & General | 524,334 | 431,404 | 433,151 |
| <u>Fundraising</u> | | | |
| Total Supporting Expenses | 524,334 | 431,404 | 433,151 |
| Total Program & Supporting Expenses | \$ 4,597,916 | \$ 4,352,286 | \$ 4,331,226 |
| Change in net assets | 6,074,488 | 4,818,495 | 4,446,671 |
| Net assets, beginning | 27,855,995 | 23,037,500 | 18,590,829 |
| Net assets, end | \$ 33,930,483 | \$ 27,855,995 | \$ 23,037,500 |

Academic Leadership Charter School
Comparative Statements of Financial Position

| FY Ended June 30, | 2020 | 2019 | 2018 |
|---|----------------------|----------------------|----------------------|
| ASSETS | | | |
| <i>Current assets</i> | | | |
| Cash and cash equivalents | \$ 28,080,162 | \$ 23,964,961 | \$ 19,559,344 |
| <u>Grants receivable</u> | <u>632,390</u> | <u>439,926</u> | <u>302,401</u> |
| Total current assets | \$ 28,712,552 | \$ 24,404,887 | \$ 19,861,745 |
| Property and equipment, net | 5,846,567 | 4,094,686 | 3,845,287 |
| <i>Other Assets</i> | | | |
| Reserve Contingency | 78,076 | 77,183 | 76,124 |
| Security Deposit | <u>-</u> | <u>-</u> | <u>-</u> |
| Total non-current assets | <u>78,076</u> | <u>77,183</u> | <u>76,124</u> |
| TOTAL ASSETS | \$ 34,637,195 | \$ 28,576,756 | \$ 23,783,156 |
| LIABILITIES & NET ASSETS | | | |
| <i>Current Liabilities</i> | | | |
| Accounts payable | \$ 317,087 | \$ 395,120 | \$ 268,738 |
| Accrued payroll and benefits | 389,622 | 323,663 | 440,220 |
| <u>Refunded Advances</u> | <u>-</u> | <u>1,975</u> | <u>36,695</u> |
| Total current liabilities | 706,709 | 720,758 | 745,653 |
| <i>Net Assets - Unrestricted</i> | | | |
| Undesigned | \$ 33,852,410 | \$ 27,778,815 | \$ 22,961,379 |
| Reserve-Contingency | 78,076 | 77,183 | 76,124 |
| Total net assets | <u>33,930,486</u> | <u>27,855,998</u> | <u>23,037,503</u> |
| TOTAL LIABILITIES AND NET ASSETS | \$ 34,637,195 | \$ 28,576,756 | \$ 23,783,156 |

THE BUDGET PROJECTION

The School has prepared the Budget Projection and related assumptions included in APPENDIX B to this Official Statement. The Budget Projection is based on the assumptions made by management of the School as to, among other things, future enrollment levels, future costs and future revenues. The Budget Projection is for the five fiscal years of the School ending June 30, 2021 through June 30, 2025. **The Budget Projection (including the notes thereto) should be read in its entirety.**

The Budget Projection is based on various assumptions that represent only the beliefs of the School's management as to the most probable future events and are subject to material uncertainties. No assurances can be given that the School will, in fact, be able to generate sufficient revenue and attain the enrollment levels as stated in the Budget Projection, and variations from the Budget Projection for each of such matters should be expected to occur. Accordingly, the operations and financial condition of the School in the future will inevitably vary from those set forth in the Budget Projection, and such variance may be material and adverse. See "RISK FACTORS—Budget Projection" in this Official Statement.

The School has not assumed any responsibility to update the Budget Projection or to provide any financial forecasts or projections in the future. The Underwriter and the Issuer have made no independent inquiry as to the assumptions on which the Budget Projection is based and assume no responsibility therefor.

CERTAIN TAX MATTERS

Opinion of Bond Counsel. In the opinion of Bryant Rabbino LLP, Bond Counsel to the Issuer, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, (i) interest on the Series 2021 Bonds is excluded from gross income for Federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and (ii) interest on the Series 2021 Bonds is not treated as a preference item in calculating the alternative minimum tax under the Code.

In addition, in the opinion of Bond Counsel to the Issuer, under existing statutes, interest on the Series 2021 Bonds is exempt from personal income taxation imposed by the State of New York or any political subdivision thereof.

The Code establishes certain requirements that must be met as of and subsequent to the issuance and delivery of the Series 2021 Bonds for interest thereon to be and remain excludable from gross income for Federal income tax purposes. These requirements include, but are not limited to, requirements relating to the use and expenditure of the proceeds of the Series 2021 Bonds, restrictions on the investment of the proceeds of the Series 2021 Bonds prior to expenditure and the requirement that certain earnings on proceeds of the Series 2021 Bonds be rebated to the Federal government. Noncompliance with such requirements may cause the interest on the Series 2021 Bonds to become subject to Federal income taxation retroactive to their date of issue, irrespective of the date on which such noncompliance occurs or is ascertained.

The Issuer, the School and the Borrower shall covenant in the Tax Regulatory Agreement to be executed and delivered by the Issuer, the School and the Borrower in connection with the issuance of the Series 2021 Bonds (the “Tax Certificate”) to comply with the requirements of the Code applicable to the Series 2021 Bonds in order to maintain the exclusion of the interest on the Series 2021 Bonds from gross income for Federal income tax purposes under Section 103 of the Code. The Issuer, the School and the Borrower shall each covenant in the Tax Certificate, that it will not take any action, permit any action to be taken, or omit to take any action, which action or omission will adversely affect the exclusion of interest on the Series 2021 Bonds from gross income for Federal income tax purposes under Section 103 of the Code.

In rendering its opinions, Bond Counsel has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the Issuer, the Borrower, the School and others, in connection with the Series 2021 Bonds, and Bond Counsel has assumed compliance by the Issuer, the Borrower and the School with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2021 Bonds from gross income under Section 103 of the Code. In addition, in rendering its opinions, Bond Counsel has relied on the opinion of counsel to the Borrower and to the School regarding, among other matters, all matters concerning the status of the Borrower as a disregarded entity for Federal income tax purposes and the School as an organization described in Section 501(c)(3) of the Code and exempt from Federal income tax under Section 501(a) of the Code.

Bond Counsel expresses no opinion regarding any other Federal, state or local tax consequences arising with respect to the Series 2021 Bonds or the ownership or disposition thereof, except as stated above. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date, and

assumes no obligation to update, revise or supplement its opinion to reflect any action thereafter taken or not taken, any fact or circumstance that may thereafter come to its attention, any change in law or interpretation thereof that may thereafter occur, or for any other reason. Bond Counsel expresses no opinion as to the consequence of any of the events described in the preceding sentence or the likelihood of their occurrence. In addition, Bond Counsel expresses no opinion on the effect of any action hereafter taken or not taken in reliance upon an opinion of other counsel regarding Federal, state or local tax matters, including, without limitation, the exclusion from gross income for Federal income tax purposes of interest on the Series 2021 Bonds.

Certain Ongoing Federal Tax Requirements and Covenants. The Code establishes certain ongoing requirements that must be met subsequent to the issuance and delivery of the Series 2021 Bonds in order that interest on the Series 2021 Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Series 2021 Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the Federal government. Noncompliance with such requirements may cause interest on the Series 2021 Bonds to become included in gross income for Federal income tax purposes retroactive to their issue date of the Series 2021 Bonds, irrespective of the date on which such noncompliance occurs or is discovered. The Issuer, the Borrower and the School have covenanted to comply with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2021 Bonds from gross income under Section 103 of the Code.

Certain Collateral Federal Tax Consequences. The following is a brief discussion of certain collateral Federal income tax matters with respect to the Series 2021 Bonds. It does not purport to address all aspects of Federal taxation that may be relevant to a particular owner of a Series 2021 Bond. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the Federal tax consequences of owning and disposing of the Series 2021 Bonds.

Prospective owners of the Series 2021 Bonds should be aware that the ownership of such obligations may result in collateral Federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is excluded from gross income for Federal income tax purposes. Interest on the Series 2021 Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

Bond Premium. In general, if an owner acquires a Series 2021 Bond for a purchase price (excluding accrued interest) or otherwise at a tax basis that reflects a premium over the sum of all amounts payable on the Series 2021 Bond after the acquisition date (excluding certain “qualified stated interest” that is unconditionally payable at least annually at prescribed rates), that premium constitutes “bond premium” on that Series 2021 Bond (a “**Premium Bond**”). In general, under Section 171 of the Code, an owner of a Premium Bond must amortize the bond premium over the remaining term of the Premium Bond, based on the owner’s yield over the remaining term of the Premium Bond determined based on constant-yield principles (in certain cases involving a Premium Bond callable prior to its stated maturity date, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on such bond). An owner of a Premium Bond must amortize the bond premium by offsetting the qualified stated interest allocable to each interest accrual period under the owner’s regular method of accounting against the bond premium allocable to that period. In the case of a tax-exempt Premium Bond, if the bond premium allocable to an accrual period exceeds the qualified stated interest

allocable to that accrual period, the excess is a nondeductible loss. Under certain circumstances, the owner of a Premium Bond may realize a taxable gain upon disposition of the Premium Bond even though it is sold or redeemed for an amount less than or equal to the owner's original acquisition cost.

Owners of any Premium Bonds should consult their own tax advisors regarding the treatment of bond premium for Federal income tax purposes, including various special rules relating thereto, and state and local tax consequences, in connection with the acquisition, ownership, and amortization of bond premium on, sale, exchange, or other disposition of Premium Bonds.

Information Reporting and Backup Withholding. Information reporting requirements apply to interest paid on tax-exempt obligations, including the Series 2021 Bonds. In general, such requirements are satisfied if the interest recipient completes, and provides the payor with, a Form W-9, "Request for Taxpayer Identification Number and Certification," or if the recipient is one of a limited class of exempt recipients. A recipient not otherwise exempt from information reporting who fails to satisfy the information reporting requirements will be subject to "backup withholding," which means that the payor is required to deduct and withhold a tax from the interest payment, calculated in the manner set forth in the Code. For the foregoing purpose, a "payor" generally refers to the person or entity from whom a recipient receives its payments of interest or who collects such payments on behalf of the recipient.

If an owner purchasing a Series 2021 Bond through a brokerage account has executed a Form W-9 in connection with the establishment of such account, as generally can be expected, no backup withholding should occur. In any event, backup withholding does not affect the excludability of the interest on the Series 2021 Bonds from gross income for Federal income tax purposes. Any amounts withheld pursuant to backup withholding would be allowed as a refund or a credit against the owner's Federal income tax once the required information is furnished to the Internal Revenue Service.

Miscellaneous. Tax legislation, administrative actions taken by tax authorities, or court decisions, whether at the Federal or state level, may adversely affect the tax-exempt status of interest on the Series 2021 Bonds under Federal or state law or otherwise prevent beneficial owners of the Series 2021 Bonds from realizing the full current benefit of the tax status of such interest. In addition, such legislation or actions (whether currently proposed, proposed in the future, or enacted) and such decisions could affect the market price or marketability of the Series 2021 Bonds.

Prospective purchasers of the Series 2021 Bonds should consult their own tax advisors regarding the foregoing matters.

The proposed form of the opinion of Bond Counsel relating to the Series 2021 Bonds is set forth in APPENDIX E hereto.

CONSIDERATIONS FOR ERISA AND OTHER U.S. BENEFIT PLAN INVESTORS

The Employee Retirement Income Security Act of 1974, as amended ("**ERISA**"), imposes certain fiduciary obligations and prohibited transaction restrictions on employee pension and welfare benefit plans subject to Title I of ERISA ("**ERISA Plans**"). Section 4975 of the Code imposes essentially the same prohibited transaction restrictions on tax-qualified retirement plans described in Section 401(a) and 403(a) of the Code, which are exempt from tax under Section 501(a) of the Code, other than governmental and church plans as defined herein ("**Qualified Retirement Plans**"), and on Individual Retirement Accounts ("**IRAs**") described in Section 408(b) of the Code (collectively, "**Tax-Favored Plans**"). Certain employee benefit plans such as governmental plans (as defined in Section 3(32) of ERISA), and, if no election has been made under Section 410(d) of the Code, church plans (as defined in Section 3(33) of ERISA), are not subject to ERISA requirements. Additionally, such governmental and non-electing church plans are not

subject to the requirements of Section 4975 of the Code. Accordingly, assets of such plans may be invested in the Series 2021 Bonds without regard to the ERISA and Code considerations described below, subject to the provisions of applicable federal and state law.

In addition to the imposition of general fiduciary obligations, including those of investment prudence and diversification and the requirement that a plan's investment be made in accordance with the documents governing the plan, Section 406 of ERISA and Section 4975 of the Code prohibit a broad range of transactions involving assets of ERISA Plans and Tax-Favored Plans and entities whose underlying assets include plan assets by reason of ERISA Plans or Tax-Favored Plans investing in such entities (collectively, "**Benefit Plans**") and persons who have certain specified relationships to the Benefit Plans ("**Parties In Interest**" or "**Disqualified Persons**"), unless a statutory or administrative exemption is available. The definitions of "Party in Interest" and "Disqualified Person" are expansive. While other entities may be encompassed by these definitions, they include, most notably: (1) a fiduciary with respect to a plan; (2) a person providing services to a plan; and (3) an employer or employee organization any of whose employees or members are covered by the plan. Certain Parties in Interest (or Disqualified Persons) that participate in a prohibited transaction may be subject to a penalty (or an excise tax) imposed pursuant to Section 502(i) of ERISA (or Section 4975 of the Code) unless a statutory or administrative exemption is available.

Certain transactions involving the purchase, holding or transfer of the Series 2021 Bonds might be deemed to constitute prohibited transactions under ERISA and Section 4975 of the Code if assets of the Issuer were deemed to be assets of a Benefit Plan. Under final regulations issued by the United States Department of Labor (the "**Plan Assets Regulation**"), the assets of the Issuer would be treated as plan assets of a Benefit Plan for the purposes of ERISA and Section 4975 of the Code only if the Benefit Plan acquires an "equity interest" in the Issuer and none of the exceptions contained in the Plan Assets Regulation is applicable. An equity interest is defined under the Plan Assets Regulation as an interest in an entity other than an instrument which is treated as indebtedness under applicable local law and which has no substantial equity features. Although there can be no assurances in this regard, it appears that the Series 2021 Bonds should be treated as debt without substantial equity features for purposes of the Plan Assets Regulation. This determination is based upon the traditional debt features of the Series 2021 Bonds, including the reasonable expectation of purchasers of Series 2021 Bonds that the Series 2021 Bonds will be repaid when due, traditional default remedies, as well as the absence of conversion rights, warrants and other typical equity features. The debt treatment of the Series 2021 Bonds for ERISA purposes could change subsequent to issuance of the Series 2021 Bonds. In the event of a characterization of the Series 2021 Bonds as other than indebtedness under applicable local law, the subsequent purchase of the Series 2021 Bonds or any interest therein by a Benefit Plan Investor is prohibited.

However, without regard to whether the Series 2021 Bonds are treated as an equity interest for such purposes, though, the acquisition or holding of Series 2021 Bonds by or on behalf of a Benefit Plan could be considered to give rise to a prohibited transaction if the Issuer or the Trustee or any of their respective affiliates, is or becomes a Party in Interest or a Disqualified Person with respect to such Benefit Plan.

Most notably, ERISA and the Code generally prohibit the lending of money or other extension of credit between an ERISA Plan or Tax-Favored Plan and a Party in Interest or a Disqualified Person, and the acquisition of any of the Series 2021 Bonds by a Benefit Plan would involve the lending of money or extension of credit by the Benefit Plan. In such a case, however, certain exemptions from the prohibited transaction rules could be applicable depending on the type and circumstances of the plan fiduciary making the decision to acquire a Series 2021 Bond. Included among these exemptions are: Prohibited Transaction Class Exemption ("**PTCE**") 96-23, regarding transactions effected by certain "in-house asset managers"; PTCE 90-1, regarding investments by insurance company pooled separate accounts; PTCE 95-60, regarding transactions effected by "insurance company general accounts"; PTCE 91-38, regarding investments by

bank collective investment funds; and PTCE 84-14, regarding transactions effected by “qualified professional asset managers.” Further, the statutory exemption in Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code provides for an exemption for transactions involving “adequate consideration” with persons who are Parties in Interest or Disqualified Persons solely by reason of their (or their affiliate’s) status as a service provider to the Benefit Plan involved and none of whom is a fiduciary with respect to the Benefit Plan assets involved (or an affiliate of such a fiduciary). There can be no assurance that any class or other exemption will be available with respect to any particular transaction involving the Series 2021 Bonds, or that, if available, the exemption would cover all possible prohibited transactions.

By acquiring a Series 2021 Bond (or interest therein), each purchaser and transferee (and if the purchaser or transferee is a Plan, its fiduciary) is deemed to (a) represent and warrant that either (i) it is not acquiring the Series 2021 Bond (or interest therein) with the assets of a Benefit Plan Investor, governmental plan or church plan; or (ii) the acquisition and holding of the Series 2021 Bond (or interest therein) will not give rise to a nonexempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code, and (b) acknowledge and agree that a Benefit Plan, governmental plan or church plan subject to similar laws may not purchase the Series 2021 Bonds at any time that the Series 2021 Bonds have been characterized as other than indebtedness for applicable local law purposes. A purchaser or transferee who acquires Series 2021 Bonds with assets of a Benefit Plan Investor represents that such purchaser or transferee has considered the fiduciary requirements of ERISA or other similar laws and has consulted with counsel with regard to the purchase or transfer.

Any ERISA Plan fiduciary considering whether to purchase the Series 2021 Bonds on behalf of an ERISA Plan should consult with its counsel regarding the applicability of the fiduciary responsibility and prohibited transaction provisions of ERISA and Section 4975 of the Code to such investment and the availability of any of the exemptions referred to above. Persons responsible for investing the assets of Tax-Favored Plans that are not ERISA Plans should seek similar counsel with respect to the prohibited transaction provisions of the Code and the applicability of any similar state or federal law.

ENFORCEABILITY OF OBLIGATIONS

On the date of delivery of the Series 2021 Bonds, Bryant Rabbino LLP, New York, New York, Bond Counsel to the Issuer, will deliver its opinion, dated the date of delivery, that the Series 2021 Bonds, the Loan Agreement, the Building Loan Agreement, the Bond Purchase Agreement and the Indenture are valid and legally binding obligations of the Issuer. Harris Beach PLLC, Uniondale, New York, as counsel to the Borrower and the School, will deliver its opinion that the various documents to which the Borrower or the School is a party are valid and legally binding agreements of the Borrower and the School, each enforceable in accordance with its respective terms. Paparone Law PLLC, as special counsel for the Trustee, will deliver its opinion that the various documents to which the Trustee is a party are valid and legally binding agreements of the Trustee, each enforceable in accordance with its respective terms. The foregoing opinions will be generally qualified to the extent that the enforceability of the respective instruments may be limited by laws, decisions and equitable principles affecting remedies and by bankruptcy or insolvency or other laws, decisions and equitable principles affecting creditors’ rights generally.

While the Series 2021 Bonds are secured or payable pursuant to the School Lease, the Loan Agreement, the Promissory Notes, the Building Loan Agreement, the Indenture, the Custody Agreement, the Tax Regulatory Agreement and the Mortgage, the practical realization of payment from any security will depend upon the exercise of various remedies specified in the respective instruments. These and other remedies are dependent in many respects upon judicial action, which is subject to discretion and delay. Accordingly, the remedies specified in the above documents may not be readily available or may be limited.

LEGAL MATTERS

Certain legal matters incident to the issuance and sale of the Series 2021 Bonds and with regard to the tax-exempt status of interest on the Series 2021 Bonds under existing laws are subject to the legal opinion of Bryant Rabbino LLP, New York, New York, as Bond Counsel to the Issuer. Certain legal matters will be passed upon for the Issuer by its General Counsel, for the School and the Borrower by their counsel, Harris Beach PLLC, Uniondale, New York, and for the Trustee by its special counsel Paparone Law PLLC, New York, New York. Zarwin Baum DeVito Kaplan Schaer Toddy P.C., Philadelphia, Pennsylvania, represents the Underwriter in this transaction.

CONTINUING DISCLOSURE

The School will execute and deliver a Continuing Disclosure Agreement with respect to the Series 2021 Bonds (the “Continuing Disclosure Agreement”) dated as of June 1, 2021, by and between the Borrower, the School and School Improvement Partnership, LLC, as Continuing Disclosure Agent (the “Continuing Disclosure Agent”). The Continuing Disclosure Agreement is made for the benefit of the registered and beneficial owners of the Series 2021 Bonds and in order to assist the Underwriter in complying with its obligations pursuant to Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Continuing Disclosure Rule”). See “APPENDIX F – FORM OF CONTINUING DISCLOSURE AGREEMENT” hereto.

Pursuant to the Continuing Disclosure Agreement, the Borrower will agree to provide, or cause to be provided, annually within 210 (two hundred ten) days after the close of each Fiscal Year and quarterly within 45 (forty-five) days of the close of each fiscal quarter to the Municipal Securities Rulemaking Board (the “MSRB”) certain quantitative financial information and operating data of the type specified in the Continuing Disclosure Agreement (the “Disclosure Information”), and to provide in a timely manner (not in excess of ten (10) business days after the occurrence of the event) to the MSRB notice of Material Events (as defined under the Continuing Disclosure Rule).

The Borrower and the School have not previously entered into any undertaking pursuant to the Continuing Disclosure Rule.

RATINGS

S&P Global Ratings has assigned to the Series 2021 Bonds a rating of “BBB-”. By explanation of the significance of the rating may only be obtained from the rating agency. Generally, rating agencies base their ratings on information and materials furnished to them and other investigations, studies and assumptions they deem appropriate. The ratings are not recommendations to buy, sell or hold the Series 2021 Bonds. There can be no assurance that the ratings will continue for any period of time or that they will not be revised or withdrawn entirely by the rating agency, if in its judgment, circumstances so warrant. Any revision or withdrawal of a rating may have an effect on the marketability and/or market price of the Series 2021 Bonds.

RELATIONSHIPS AMONG THE PARTIES

In connection with the issuance of the Series 2021 Bonds, the Issuer, the Borrower, the School and the Underwriter are being represented by the attorneys or law firms identified above under the heading “LEGAL MATTERS.” In other transactions not related to the Series 2021 Bonds, each of these attorneys or law firms may have acted as bond counsel or represented the Issuer, the Borrower, the School or the Underwriter or their affiliates, in capacities different from those described under “LEGAL MATTERS,” and there will be no limitations imposed as a result of the issuance of the Series 2021 Bonds on the ability of any of these firms or attorneys to act as bond counsel or represent any of these parties in any future

transactions. Potential purchasers of the Series 2021 Bonds should not assume that the Issuer, the Borrower, the School and the Underwriter or their respective counsel or Bond Counsel have not previously engaged in or will not after the issuance of the Series 2021 Bonds engage in, other transactions with each other or with any affiliates of any of them, and no assurances can be given that there are or will be no past or future relationship or transactions between or among any of these parties or these attorneys or law firms.

School Improvement Partnership, the Continuing Disclosure Agent, is owned by a member of Zarwin Baum DeVito Kaplan Schaer Toddy P.C., counsel to the Underwriter.

ABSENCE OF MATERIAL LITIGATION

The Issuer

There is no action, suit, proceeding or investigation at law or in equity by or before any court, public board or body pending against the Issuer of which the Issuer has notice, or, to the Issuer's knowledge, overtly threatened against the Issuer, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Indenture or the Loan Agreement.

The Borrower

No litigation, investigations or proceedings are now pending or, to the best knowledge of the Borrower, are any threatened against the Borrower which would have a materially adverse effect on the financial condition or operations of the Borrower or in any manner challenge or adversely affect the existence or power of the Borrower to enter into and carry out the transactions described in or contemplated by, or the execution, delivery, validity or performance by the Borrower under the Loan Agreement, the Mortgage, the Building Loan Agreement, the School Lease, the Continuing Disclosure Agreement, the Tax Regulatory Agreement, the Custody Agreement, or the Bond Purchase Agreement, or any other Project Document to which the Borrower is a party.

The School

No litigation, investigations or proceedings are now pending or, to the best knowledge of the School, are any threatened against the School which would have a materially adverse effect on the financial condition or operations of the School or in any manner challenge or adversely affect the existence or power of the School to enter into and carry out the transactions described in or contemplated by, or the execution, delivery, validity or performance by the School under the Loan Agreement, the School Lease, the Continuing Disclosure Agreement, the Tax Regulatory Agreement or any other Project Document to which the School is a party.

UNDERWRITING

The Series 2021 Bonds will be purchased for re-offering at a negotiated sale by Robert W. Baird & Co. Incorporated (the "**Underwriter**") from the Issuer. The Underwriter will enter into a Bond Purchase Agreement with the Issuer, the Borrower and the School, among other parties, that provides that the Underwriter will purchase the Series 2021 Bonds at closing and, upon satisfaction of certain conditions, will purchase the remaining Series 2021 Bonds as advances made in accordance with the Indenture. The obligation of the Underwriter to accept delivery of the Series 2021 Bonds will be subject to various conditions contained in the Bond Purchase Agreement. Expenses associated with the issuance of the Series 2021 Bonds are being paid from proceeds of the Series 2021 Bonds. The right of the Underwriter to receive compensation in connection with the Series 2021 Bonds is contingent upon the actual sale and delivery of

the Series 2021 Bonds. The Bond Purchase Agreement provides that the Underwriter will purchase all of the Series 2021 Bonds, if any Series 2021 Bonds are purchased.

The Underwriter intends to offer the Series 2021 Bonds in a limited offering at the offering prices set forth on the inside cover page of this Official Statement, less an underwriter's discount of \$310,975, which offering prices may be subsequently changed from time to time by the Underwriter without any requirement of prior notice. The Underwriter will receive no fee (other than the underwriter's discount described in the preceding sentence) from the Issuer, the Borrower or the School for underwriting the Series 2021 Bonds. The Underwriter has reserved the right to permit other securities dealers who are members of the Financial Industry Regulatory Authority to assist in selling the Series 2021 Bonds. The Underwriter may offer and sell the Series 2021 Bonds to certain dealers (including dealers depositing Series 2021 Bonds into investment trusts) at prices lower than the public offering prices set forth on the inside cover page of this Official Statement or otherwise allow concessions to such dealers who may re-allow concessions to other dealers. Any discounts or commissions that may be received by such dealers in connection with the sale of the Series 2021 Bonds will be deducted from the Underwriter's underwriting discount.

THE TRUSTEE

The Issuer has appointed The Bank of New York Mellon to serve as Trustee, Bond Registrar and Paying Agent. The Trustee is a banking corporation organized and existing under the laws of the State of New York, having all of the powers of a bank, including fiduciary powers, and is a member of the Federal Deposit Insurance Corporation and the Federal Reserve System. The Trustee is to carry out those duties assignable to it under the Indenture and the other Security Documents. Except for the contents of this section, the Trustee has not reviewed or participated in the preparation of this Official Statement and assumes no responsibility for the nature, contents, accuracy, fairness or completeness of the information set forth in this Official Statement or for the recitals contained in the Indenture or the Series 2021 Bonds (other than the Trustee's certificate of authentication), or for the validity, sufficiency, or legal effect of any of such documents.

Furthermore, the Trustee has no oversight responsibility, and is not accountable, for the use or application by the Issuer of any of the Series 2021 Bonds authenticated or delivered pursuant to the Indenture or for the use or application of the proceeds of such Series 2021 Bonds by the Borrower. The Trustee has not evaluated the risks, benefits, or propriety of any investment in the Series 2021 Bonds and makes no representation, and has reached no conclusions, regarding the value or condition of any assets or revenues pledged or assigned as security for the Series 2021 Bonds, or the investment quality of the Series 2021 Bonds, about all of which the Trustee expresses no opinion and expressly disclaims the expertise to evaluate.

The mailing address of the Trustee is 240 Greenwich, Floor 7W, New York, New York 10286, Attention: Corporate Trust Administration. Additional information about the Trustee may be found at its website at <http://www.bnymellon.com>. The Bank of New York Mellon website is not incorporated into this Official Statement by such reference and is not a part hereof.

MISCELLANEOUS

The foregoing does not purport to be comprehensive or definitive, and all references to any document herein are qualified in their entirety by reference to each such document. All references to the Series 2021 Bonds are qualified in their entirety by reference to the forms thereof and the information with respect thereto included in the aforesaid documents. Copies of these documents are available for inspection during the period of the offering at the offices of the Underwriter in Denver, Colorado and thereafter at the principal corporate trust office of the Trustee. In addition to certain information provided herein, all

information contained in APPENDICES A, B, C, D, and E, along with information regarding the Forecast and projected debt service coverage under the caption “SUMMARY INFORMATION,” has been provided by the Borrower or the School or been derived from information provided by the Borrower or the School. Neither the Issuer nor the Underwriter make any representations or warranties as to the accuracy or completeness of the information in any of the Appendices.

No Registration of the Series 2021 Bonds

Registration or qualification of the offer and sale of the Series 2021 Bonds (as distinguished from registration of the ownership of the Series 2021 Bonds) is not required under the Securities Act. THE ISSUER ASSUMES NO RESPONSIBILITY FOR QUALIFICATION OR REGISTRATION OF THE SERIES 2021 BONDS FOR SALE UNDER THE SECURITIES LAWS OF ANY JURISDICTION IN WHICH THE SERIES 2021 BONDS MAY BE SOLD, ASSIGNED, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED.

Interest of Certain Persons Named in this Official Statement

The fees to be paid to counsels to the Borrower and the School, counsel to the Underwriter, the Trustee, counsel to the Trustee, and the Underwriter are contingent upon the sale and delivery of the Series 2021 Bonds.

Official Statement Certification

The Borrower, the School and the Issuer have authorized and approved the use and distribution of this Official Statement. The Issuer has not reviewed or approved any matters herein and assumes no responsibility for the accuracy or completeness of the information herein except for the information under the caption “THE ISSUER” and “ABSENCE OF MATERIAL LITIGATION—The Issuer” in this Official Statement.

The preparation of this Official Statement and its distribution has been authorized by the Borrower and the School. This Official Statement is not to be construed as an agreement or contract between the Borrower or the School and any purchaser, owner or holder of any Series 2021 Bond.

FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC,
a New York limited liability company

By: ACADEMIC LEADERSHIP CHARTER
SCHOOL, a New York not-for-profit and education
corporation, its sole member

By: /s/ Norma Hurwitz

Name: Norma Hurwitz
Title: Co-Founder/Executive Director

ACADEMIC LEADERSHIP CHARTER SCHOOL,
a New York not-for-profit and education corporation

By: /s/ Norma Hurwitz

Name: Norma Hurwitz

Title: Co-Founder/Executive Director

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APPENDIX A

SUMMARY OF CERTAIN PROVISIONS OF NEW YORK EDUCATION LAW

The following summarizes certain provisions of the New York Charter Schools Act of 1998, Article 56, §§2850-2857 of the New York Education Law, as amended (the “Act”), other applicable provisions of the New York Education Law, and related regulations. The following provides a summary only and is only for informational purposes. Potential investors should refer to and independently evaluate applicable provisions of the Act in their entirety, with assistance from counsel as necessary, for a complete understanding of their terms. Further, potential investors should note that the provisions summarized below are subject to change, and this summary only pertains to certain aspects of currently existing law. See “RISK FACTORS—Changes in Law; Annual Appropriation; Inadequate Education Aid Payments” in this Official Statement.

Purpose (New York Education Law § 2850)

The purpose of the Act is to authorize a system of charter schools to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- (a) Improve student learning and achievement;
- (b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;
- (c) Encourage the use of different and innovative teaching methods;
- (d) Create new professional opportunities for teachers, school administrators and other school personnel;
- (e) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (f) Provide schools with a method to change from rule-based to performance-based accountability systems by holding the schools established under the Act accountable for meeting measurable student achievement results.

Eligible Applicants; Applications; Submission (New York Education Law §§ 2851(1), 2851(2) and 2851(3))

An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under §501(c)(3) of the Internal Revenue Code or for-profit business or corporate entity authorized to do business in New York state. Provided however, for-profit business or corporate entities shall not be eligible to submit an application to establish a charter school pursuant to §2852(9-a) (a request for proposals process) of the Act or operate or manage a charter school for a charter issued pursuant to §2852(9-a) (a request for proposals process) of the Act. For charter schools established in conjunction with

a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school.

The information provided on the application shall be consistent with the provisions of the Act and other applicable laws, rules and regulations.

An applicant shall submit the application to a charter entity for approval. For purposes of the Act, a charter entity shall be:

(a) The board of education of a school district eligible for an apportionment of aid under §3602(4) (apportionment of public moneys to school districts employing eight or more teachers) of the New York Education Law; provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of 1,000,000 or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The Board of Trustees of the State University of New York; or

(c) The Board of Regents. The Board of Regents shall be the only entity authorized to issue a charter pursuant to the Act.

Notwithstanding any provision of this section to the contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this section. Notwithstanding any law, rule or regulation to the contrary, any such §2852(9-a) application for conversion shall be consistent with this section but shall not be subject to the process pursuant to the Act, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

Charter Renewal (New York Education Law § 2851(4))

Charters may be renewed, upon application, for a term of up to five (5) years in accordance with the provisions of the Act for the issuance of such charters pursuant to §2852 of the Act; provided however, that a renewal application shall include:

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the Board of Regents.

(c) Copies of each of the annual reports of the charter school required by §2857 of the Act, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to

approving such charter school's application for renewal. When developing such targets, the Board of Regents and the Board of Trustees of the State University of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of 1,000,000 or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city have a population of 1,000,000 or more inhabitants, the community school district, in which the proposed charter school would be located.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

Charter School Organization (New York Education Law §2853(1))

(a) Upon the approval of a charter by the Board of Regents, the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five (5) years, provided however in the case of charters issued pursuant to §2852(9-a) of the Act the Board of Regents shall incorporate the charter school as an education corporation for a term not to exceed five (5) years in which instruction is provided to pupils plus the period commencing with the effective date of the charter and ending with the opening of the school for instruction. Such certificate of incorporation shall not modify or limit any terms of the charter approved by the Board of Regents. Upon approval of an application to renew a charter, the Board of Regents shall extend the certificate of incorporation for a term not to exceed five (5) years. Upon termination or nonrenewal of the charter of a charter school pursuant to §2855 of the Act, the certificate of incorporation of the charter school shall be revoked by the Board of Regents pursuant to § 219 (change of charter) of the New York Education law, provided that compliance with the notice and hearing requirements of the Act shall be deemed to satisfy the notice and hearing requirements of §219 of the New York Education law. It shall be the duty of the trustees of the charter school to obtain federal tax-exempt status no later than one year following approval of a charter school by the Board of Regents. For purposes of the Act, "certificate of incorporation" shall mean the provisional charter issued by the Board of Regents to form the charter school as an educational corporation pursuant to §§216 (charters) and 217 (provisional charters) of the New York Education Law.

(b) An education corporation organized to operate a charter school shall have all corporate powers necessary and desirable for carrying out a charter school program in accordance with the provisions of the Act, other applicable laws and regulations and the terms of the charter, including all of the powers of an education corporation formed to operate an elementary or secondary school and those powers granted under the provisions of the not-for-profit corporation law that are made applicable to charter schools by §216-a (applicability of not-for-profit corporation law) of the New York Education Law. The powers of the trustees of the charter school shall include those powers specified in §226 (powers of trustees of institutions) of the New York Education Law.

(b-1) An education corporation operating a charter school shall be authorized to operate more than one school or house any grade at more than one site, provided that a charter must be issued for each such additional school or site in accordance with the requirements for the issuance of a charter pursuant to the Act and that each such additional school or site shall count as a charter issued pursuant to §2852(9) of the Act; and provided further that:

- (i) a charter school may operate in more than one building at a single site; and

(ii) a charter school which provides instruction to its students at different locations for a portion of their school day shall be deemed to be operating at a single site.

(c) A charter school shall be deemed an independent and autonomous public school, except as otherwise provided in the Act and a political subdivision having boundaries coterminous with the school district or community school district in which the charter school is located. The charter entity and the Board of Regents shall be deemed to be the public agents authorized to supervise and oversee the charter school.

(d) The powers granted to a charter school under the Act constitute the performance of essential public purposes and governmental purposes of the state. A charter school shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special ad valorem levies on its earnings and its property, including property leased by the charter school. Instruments of conveyance to or from a charter school and any bonds or notes issued by a charter school, together with the income therefrom, shall at all times be exempt from taxation.

(e) A charter school shall not have the power to levy taxes or to acquire property by eminent domain.

(f) The Board of Trustees of the charter school shall have final authority for policy and operational decisions of the school. Nothing herein shall prohibit the Board of Trustees of a charter school from delegating decision-making authority to officers and employees of the school in accordance with the provisions of the charter.

(g) Notwithstanding any provision of law to the contrary, no civil liability shall attach to any charter entity, the Board of Regents, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. Neither the local school district, the charter entity nor the state shall be liable for the debts or financial obligations of a charter school or any person or corporate entity who operates a charter school.

Public and Private Assistance to Charter Schools (New York Education Law §2853(4))

Effective until June 30, 2021:

(a) For purposes of §§701 (power to designate text-books; purchase and loan of text-books; purchase of supplies), 711 (aid for purchase of school library materials), 751 (aid for computer software purchases) and 912 (health and welfare services to all children) of the New York Education Law, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

Effective June 30, 2021:

(a) For purposes of §§701 (power to designate textbooks; purchase and loan of textbooks; purchase of supplies), 711 (aid for purchase of school library materials), 751 (aid for computer software purchases) and 912 (health and welfare services to all children) of the New York Education Law, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or

subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

(b) For purposes of §3635 (transportation) of the New York Education Law, a charter school shall be deemed a nonpublic school. The charter and application therefor shall set forth the manner in which students ineligible for transportation pursuant to §3635 of the New York Education Law shall be transported to and from school. Any supplemental transportation provided by a charter school shall comply with all transportation safety laws and regulations applicable to other public schools. A school district may enter into a contract for the provision of supplemental transportation services to a charter school, and any such services shall be provided by the school district at cost.

(c) A charter school may contract with the governing body of a public college or university for the use of a school building and grounds, the operation and maintenance thereof. Any such contract shall provide such services or facilities at cost. A school district shall permit any charter school granted approval to co-locate, to use such services and facilities without cost.

(d) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(e) The school district of residence of children attending a charter school may, but is not required to, allow such children to participate in athletic and extra-curricular activities of the district's schools.

Applicability of Other Laws (New York Education Law §2854(1))

(a) Notwithstanding any provision of law to the contrary, to the extent that any provision of the Act is inconsistent with any other state or local law, rule or regulation, the provisions of the Act shall govern and be controlling.

(b) A charter school shall meet the same health and safety, civil rights, and student assessment requirements applicable to other public schools, except as otherwise specifically provided in the Act. A charter school shall be exempt from all other state and local laws, rules, regulations, or policies governing public or private schools, boards of education, school districts and political subdivisions, including those relating to school personnel and students, except as specifically provided in the school's charter or in the Act. Nothing in this section shall affect the requirements of compulsory education of minors established by Part 1 of Article 65 (compulsory education) of the New York Education Law.

(c) A charter school shall be subject to the financial audits, the audit procedures, and the audit requirements set forth in the charter and shall be subject to audits of the comptroller of the city school district of the city of New York for charter schools located in New York city, and to audits of the New York State Comptroller for charter schools located in the rest of the state, at his or her discretion, with respect to the school's financial operations. Such procedures and standards shall be consistent with generally accepted accounting and audit standards. Independent fiscal audits shall be required at least once annually.

(d) A charter school shall design its educational programs to meet or exceed the student performance standards adopted by the Board of Regents and the student performance standards contained in the charter. Students attending charter school shall be required to take Regents examinations to the same extent such examinations are required of other public school students. A charter school offering instruction in the high school grades may grant Regents diplomas and local diplomas to the same extent as other public schools, and such other certificates and honors as are specifically authorized by their charter, and in

testimony thereof give suitable certificates, honors and diplomas under its seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any other public school.

(e) A charter school shall be subject to the provisions of the New York Freedom of Information Law and New York Open Meetings Law.

(f) A charter school shall be subject to the provisions of §§800 (definitions), 801 (conflicts of interest prohibited), 802 (exceptions), 803 (disclosure of interest), 804 (contracts void), 804-a (certain interests prohibited), 805 (violations), 805-a (certain action prohibited), 805-b (solemnization of marriages) and 806 (code of ethics) of the General Municipal Law to the same extent such sections apply to school districts.

Admission; Enrollment; Students (New York Education Law §2854(2))

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in the Act shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure or students with disabilities and English language learners; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. Preference may also be provided to children of employees of the charter school or charter management organization, provided that such children of employees may constitute no more than 15% of the charter school's total enrollment. The Commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of §104 of the Public Officers Law and be open to the public. For purposes of this paragraph and paragraph (a) above, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

(c) A charter school shall serve one or more of the grades one through twelve and shall limit admission to pupils within the grade levels served. Nothing in the Act shall prohibit a charter school from establishing a kindergarten program.

(d) A student may withdraw from a charter school at any time and enroll in a public school. A charter school may refuse admission to any student who has been expelled or suspended from a public school until the period of suspension or expulsion from the public school has expired, consistent with the requirements of due process.

Causes for Revocation or Termination (New York Education Law §2855)

The charter entity, or the Board of Regents, may terminate a charter upon any of the following grounds:

(a) When a charter school's outcome on student assessment measures adopted by the Board of Regents falls below the level that would allow the Commissioner to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years;

(b) Serious violations of law;

(c) Material and substantial violation of the charter, including fiscal mismanagement;

(d) When the public employment relations board makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of §209-a(i) (improper employer practices) of the Civil Service Law involving interference with or discrimination against employee rights under Article 14 (Public Employees' Fair Employment Act) of the Civil Service Law; or

(e) Repeated failure to comply with the requirement to meet or exceed enrollment and retention targets of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program pursuant to targets established by the Board of Regents or the Board of Trustees of the State University of New York, as applicable. Provided, however, if no grounds for terminating a charter are established pursuant to §2855 of the Act other than pursuant to this paragraph (e), and the charter school demonstrates that it has made extensive efforts to recruit and retain such students, including outreach to parents and families in the surrounding communities, widely publicizing the lottery for such school, and efforts to academically support such students in such charter school, then the charter entity or Board of Regents may retain such charter.

Notice of intent to revoke a charter shall be provided to the Board of Trustees of a charter school at least 30 days prior to the effective date of the proposed revocation. Such notice shall include a statement of reasons for the proposed revocation. The charter school shall be allowed at least 30 days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the Board of Regents.

In addition to the provisions of the paragraph above, the charter entity or the Board of Regents may place a charter school falling within the provisions of paragraphs (a) through (e) above on probationary status to allow the implementation of a remedial action plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

Any individual or group may bring a complaint to the Board of Trustees of a charter school alleging a violation of the provisions of the Act, the charter, or any other provision of law relating to the management or operation of the charter school. If, after presentation of the complaint to the Board of Trustees of a charter school, the individual or group determines that such board has not adequately addressed the complaint, they may present that complaint to the charter entity, which shall investigate and respond. If, after presentation of the complaint to the charter entity, the individual or group determines that the charter entity has not adequately addressed the complaint, they may present that complaint to the Board of Regents, which shall investigate and respond. The charter entity and the Board of Regents shall have the power and the duty to issue appropriate remedial orders to charter schools under their jurisdiction to effectuate the provisions of this section.

The regulatory power of the Board of Regents and the Commissioner shall not extend to charter schools except as otherwise specifically provided in the Act.

Review and Assessment (New York Education Law §§2857(2), 2857(3) and 2857(5))

Each charter school shall submit to the charter entity and to the Board of Regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year and shall be made publicly available by such date and shall be posted on the charter school's website. The annual report shall be in such form as shall be prescribed by the Commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the Commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community including making it publicly available by transmitting it to local newspapers of general circulation and making it available for distribution at board of trustee meetings;

(b) discussion of the progress made towards achievement of the goals set forth in the charter;

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school and any audit conducted by the New York State Comptroller; and

(d) efforts taken by the charter school in the existing school year, and a plan for efforts to be taken in the succeeding school year, to meet or exceed enrollment and retention targets set by the Board of Regents or the Board of Trustees of the State University of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program established pursuant to § 2851(4)(e) of the Act.

The Board of Regents shall report annually to the governor, the temporary president of the senate, and the speaker of the assembly the following information:

(a) The number, distribution, and a brief description of new charter schools established during the preceding year;

- (a-1) A list including the number of charter schools closed during the preceding year, and a brief description of the reasons therefor including, but not limited to, non-renewal of the charter or revocation of the charter;
- (b) The department's assessment of the current and projected programmatic and fiscal impact of charter schools on the delivery of services by school districts;
- (c) The academic progress of students attending charter schools, as measured against comparable public and nonpublic schools with similar student population characteristics wherever practicable;
- (d) A list of all actions taken by a charter entity on charter application and the rationale for the renewal or revocation of any charters; and
- (e) Any other information regarding charter schools that the Board of Regents deems necessary. The format for this annual report shall be developed in consultation with representatives of school districts and charter school officials.

The Board of Regents shall on an annual basis review and make available to school districts best educational practices employed by charter schools.

Facilities (New York Education Law § 2853-3)

(1) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or in any other suitable location. Provided, however, before a charter school may be located in part of an existing public school building, the charter entity shall provide notice to the parents or guardians of the students then enrolled in the existing school building and shall hold a public hearing for purposes of discussing the location of the charter school. A charter school may own, lease or rent its space.

(a-1) (i) For charters issued pursuant to §2852(9-a) of the Act located outside a city school district in a city having a population of 1,000,000 or more inhabitants, the department shall approve plans and specifications and issue certificates of occupancy for such charter schools. Such charter schools shall comply with all department health, sanitary, and safety requirements applicable to facilities and shall be treated the same as other public schools for purposes of local zoning, land use regulation and building code compliance. Provided however, that the department shall be authorized to grant specific exemptions from the requirements of this paragraph to charter schools upon a showing that compliance with such requirements creates an undue economic hardship or that some other good cause exists that makes compliance with this paragraph extremely impractical. A demonstrated effort to overcome the stated obstacles must be provided.

(ii) In a city school district in a city with a population of 1,000,000 or more, all charters authorized to be issued by the chapter of the laws of 2010 which amended this subdivision shall be obligated to comply with the department's health, safety and sanitary requirements applicable to facilities to the same extent as non-charter public schools in such a city school district.

(a-2) A charter school shall be deemed a nonpublic school for purposes of local zoning, land use regulation and building code compliance if it has been granted an exemption by the department pursuant to paragraph (a-1) above or if its charter was not issued pursuant to §2852(9-a) of the Act.

(a-3) Before a charter school may be located or co-located in an existing public school building in a city school district in a city having a population of 1,000,000 or more inhabitants, the chancellor shall identify which public school buildings may be subject to location or co-location, provide the rationale as to why such public school building is identified for location or co-location and shall make all such information publicly available, including via the city board's official internet website. In addition, the chancellor shall provide widespread notice of such information including to the community superintendent, community district education council and the school-based management team. After a public school building has been selected for a proposed location or co-location, the chancellor shall develop a building usage plan in accordance with the Act.

(a-4) In a city school district in a city having a population of 1,000,000 or more inhabitants, a shared space committee shall be established in each public school building in which one or more charter schools are located or co-located within a public school building with non-charter public schools. The shared space committee shall be comprised of the principal, a teacher, and a parent of each co-located school. Such committee shall conduct regular meetings, at least four times per school year, to review implementation of the building usage plan developed pursuant to the Act.

(a-5) Notwithstanding any provision to the contrary, in a city school district in a city having a population of 1,000,000 or more inhabitants, the determination to locate or co-locate a charter school within a public school building and the implementation of and compliance with the building usage plan developed pursuant to the Act that has been approved by the board of education of such city school district pursuant to the New York Education law and after satisfying the requirements of the New York Education law may be appealed to the commissioner pursuant to applicable provisions of the New York Education law. Provided further, the revision of a building usage plan approved by the board of education consistent with the requirements pursuant to the New York Education law may also be appealed to the commissioner on the grounds that such revision fails to meet the standards set forth in the Act. Following a petition for such appeal pursuant to this paragraph, such city school district shall have ten days to respond. The petition must be dismissed, adjudicated or disposed of by the commissioner within ten days of the receipt of the city school district's response.

(b) A charter school may pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit; provided, however, that a charter school shall not pledge or assign monies provided, or to be provided, pursuant to §2856(1) of the Act in connection with the purchase or construction, acquisition, reconstruction, rehabilitation or improvement of a school facility.

(c) The office of general services shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that may be suitable for the operation of a charter school. Such list shall be provided to applicants for charter schools and to existing charter schools. At the request of a charter school or a prospective applicant, a school district shall make available a list of vacant and unused school buildings and vacant and unused portions of school buildings, including private school buildings, within the school district that may be suitable for the operation of a charter school.

(d) Notwithstanding any other provision to the contrary, in a city school district in a city having a population of 1,000,000 or more inhabitants, the chancellor must first authorize in writing any proposed capital improvements or facility upgrades in excess of \$5,000, regardless of the source of funding, made to accommodate the co-location of a charter school within a public school building. For any such improvements or upgrades that have been approved by the chancellor, capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building. For any capital improvements or facility upgrades in excess of \$5,000 that have been approved by the chancellor, regardless of the source of funding, made in a charter

school that is already co-located within a public school building, matching capital improvements or facility upgrades shall be made in an amount equal to the expenditure of the charter school for each non-charter public school within the public school building within three months of such improvements or upgrades.

(e) In a city school district in a city having a population of 1,000,000 or more inhabitants, charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to the Act, approved by their charter entity for the 2014-2015 school year or thereafter and request co-location in a public school building shall be provided access to facilities pursuant to §2853-3(e) of the Act for such charter schools that first commence instruction or that require additional space due to an expansion of grade level, pursuant to the Act, approved by their charter entity for those grades newly provided.

(1) Notwithstanding any other provision of law to the contrary, within the later of (i) five months after a charter school's written request for co-location and (ii) 30 days after the charter school's charter is approved by its charter entity, the city school district shall either: (A) offer at no cost to the charter school a co-location site in a public school building approved by the Board of Education as provided by law, or (B) offer the charter school space in a privately owned or other publicly owned facility at the expense of the city school district and at no cost to the charter school. The space must be reasonable, appropriate and comparable and in the community school district to be served by the charter school and otherwise in reasonable proximity.

(2) No later than 30 days after approval by the Board of Education or expiration of the offer period prescribed in paragraph (1) above, the charter school shall either accept the city school district's offer or appeal in accordance with paragraph (3) below. If no appeal is taken, the city's offer or refusal to make an offer is final and non-reviewable. The charter school may appeal as early as issuance of an educational impact statement for the proposed co-location.

(3) The charter school shall have the option of appealing the city school district's offer or failure to offer a co-location site through binding arbitration in accordance with the Act, an expedited appeal to the Commissioner pursuant to applicable provisions of the New York Education Law, or a special proceeding pursuant to Article 78 of the civil practice law and rules. In any such appeal, the standard of review is the standard prescribed in §7803 of the civil practice law and rules.

(4) If the appeal results in a determination in favor of the city school district, the city's offer is final, and the charter school may either accept such offer and move into the space offered by the city school district at the city school district's expense or locate in another site at the charter school's expense.

(5) For a new charter school whose charter is granted or for an existing charter school whose expansion of grade level, pursuant to the Charter Schools Act, is approved by their charter entity, if the appeal results in a determination in favor of the charter school, the city school district will pay the charter school an amount attributable to the grade level expansion or the formation of the new charter school that is equal to the lesser of:

(A) the actual rental cost of an alternative privately owned site selected by the charter school or

(B) 30% of the product of the Charter School Basic Tuition for the current school year and (i) for a new charter school that first commences instruction on or after July 1, 2014, the charter school's current year enrollment; or (ii) for a charter school which expands its grade level, pursuant to the Act, the positive difference of the charter school's

enrollment in the current school year minus the charter school's enrollment in the school year prior to the first year of the expansion.

(6) An arbitration in an appeal pursuant to this paragraph shall be conducted by a single arbitrator selected in accordance with the Act.

Financing of Charter Schools (New York Education Law § 2856)

Effective June 30, 2021:

(a) The enrollment of students attending charter schools shall be included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance, and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the Charter School Basic Tuition which shall be:

(i) for school years prior to the 2009-2010 school year, an amount equal to 100% of the amount calculated pursuant §3602(1)(f) of the New York Education Law for the school district for the year prior to the Base Year increased by the percentage change in the State Total Approved Operating Expense calculated pursuant to §3602(1)(t) of the New York Education Law from two years prior to the Base Year to the Base Year;

(ii) for the 2009-2010 school year, the Charter School Basic Tuition shall be the amount payable by such district as Charter School Basic Tuition for the 2008-2009 school year;

(iii) for the 2010-2011 through 2013-2014 school years, the Charter School Basic Tuition shall be the basic tuition computed for the 2010-2011 school year pursuant to the provisions of subparagraph (i) above;

(iv) for the 2014-2015 through 2016-2017 school years, the Charter School Basic Tuition shall be the sum of the lesser of the Charter School Basic Tuition computed for the 2010-2011 school year pursuant to the provisions of subparagraph (i) above or the Charter School Basic Tuition computed for the current year pursuant to the provisions of subparagraph (i) above plus the supplemental basic tuition;

(v) for the 2017-2018 school year, the Charter School Basic Tuition shall be the sum of (A) the Charter School Basic Tuition for the 2016-2017 school year plus (B) \$500;

(vi) for the 2018-2019 school year, the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year five years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to §3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year, provided that the highest and lowest annual quotients shall be excluded from the calculation of such average or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the

purpose of compliance with §305(21)(b) of the New York Education Law published annually on June 5th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to §3602(1)(n) of the New York Education Law for the year prior to the Base Year;

(vii) for the 2019-2020 school year the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the base year of the Total Approved Operating Expense for such school district calculated pursuant to §3602(1)(t) of the New York Education Law for each such year divided by the total approved operating expense for such district for the immediately preceding year provided that the highest annual quotient calculated pursuant to this subparagraph shall be replaced by the average quotient calculated pursuant to subparagraph (vi) of this paragraph or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with §305(21)(b) of the New York Education Law published annually on June 5th for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to §3602(1)(n) of the New York Education Law for the year prior to the Base Year;

(viii) for the 2020-2021 school year and thereafter, the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to §3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with §305(21)(b) of the New York Education Law published annually on June 5th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to §3602(1)(n) of the New York Education Law for the year prior to the Base Year.

(ix) for the 2022-2023, 2023-2024, 2024-2025 school years, the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the Base Year and finishing with the year prior to the Base Year, excluding the 2020-2021 school year, of the Total Approved Operating Expense for such school district calculated pursuant to §3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating Expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with §305(21)(b) of the New York Education Law published annually on June 5th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to §3602(1)(n) of the New York Education Law for the year prior to the Base Year.

(x) for the 2025-2026 school year and thereafter, the Charter School Basic Tuition shall be the lesser of (A) the product of (i) the Charter School Basic Tuition calculated for the Base Year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the Base Year and finishing with the year prior to the Base Year of the Total Approved Operating Expense for such school district calculated pursuant to §3602(1)(t) of the New York Education Law for each such year divided by the Total Approved Operating

Expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with §305(21)(b) of the New York Education Law published annually on June 5th for the year prior to the Base Year divided by the total estimated public enrollment for the school district pursuant to §3602(l)(n) of the New York Education Law for the year prior to the Base Year.

For the purposes of this subdivision, the “supplemental basic tuition” shall be (A) for a school district for which the Charter School Basic Tuition for the current year is greater than or equal to the Charter School Basic Tuition for the 2010-2011 school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the 2014-2015 school year \$250, (2) for the 2015-2016 school year \$350, (3) for the 2016-2017 school year \$500, and (4) for the 2017-2018 school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the 2016-2017 school year plus (ii) \$500, and (B) for school years prior to the 2017-2018 school year, for a school district for which the Charter School Basic Tuition for the 2010-2011 school year is greater than the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the Charter School Basic Tuition for the 2010-2011 school year minus the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (C) for school years following the 2016-2017 schools years, for a school district for which the Charter School Basic Tuition for the 2010-2011 school year is greater than the Charter School Basic Tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the 2016- 2017 school year plus (ii) \$500.

(b) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this section from State or local funds may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this section shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this section shall be determined by the Commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter until actual enrollment data is reported to the school district by the charter school. Such projections shall be reconciled with the actual enrollment as actual enrollment data is so reported and at the end of the school’s first year of operation and each subsequent year based on a final report of actual enrollment by the charter school, and any necessary adjustments resulting from such final report shall be made to payments during the school’s following year of operation.

(c) Notwithstanding any other provision of this subdivision to the contrary, payment of the federal aid attributable to a student with a disability attending a charter school shall be made in accordance with the requirements of section 8065-a of title twenty of the United States code and sections 76.785-76.799 and 300.209 of title thirty-four of the code of federal regulations.

(d) School districts shall be eligible for an annual apportionment equal to the amount of the supplemental basic tuition for the charter school in the Base Year for the expenses incurred in the 2014-2015, 2015-2016, and 2016-2017 school years and thereafter.

Effective until June 30, 2021:

1. (a) The enrollment of students attending charter schools shall be included in the enrollment, attendance and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance and count of students with disabilities to the department. The school district of residence shall pay directly to the charter school for each student enrolled in the charter school who resides in the school district the charter school basic tuition which shall be:

(i) for school years prior to the two thousand nine--two thousand ten school year, an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the school district for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such district as charter school basic tuition for the two thousand eight--two thousand nine school year;

(iii) for the two thousand ten--two thousand eleven through two thousand thirteen--two thousand fourteen school years, the charter school basic tuition shall be the basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph;

(iv) for the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen and two thousand sixteen--two thousand seventeen school years, the charter school basic tuition shall be the sum of the lesser of the charter school basic tuition computed for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph or the charter school basic tuition computed for the current year pursuant to the provisions of subparagraph (i) of this paragraph plus the supplemental basic tuition;

(v) for the two thousand seventeen--two thousand eighteen school year, the charter school basic tuition shall be the sum of (A) the charter school basic tuition for the two thousand sixteen--two thousand seventeen school year plus (B) five hundred dollars;

(vi) for the two thousand eighteen--two thousand nineteen school year, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year five years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year, provided that the highest and lowest annual quotients shall be excluded from the calculation of such average or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(vii) for the two thousand nineteen--two thousand twenty school year the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year provided that the highest annual quotient calculated pursuant to this subparagraph shall be replaced by the average quotient calculated pursuant to subparagraph (vi) of this paragraph or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(viii) for the two thousand twenty--two thousand twenty-one and two thousand twenty-one--two thousand twenty-two school years, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year multiplied by, for the two thousand twenty--two thousand twenty-one school year only, (iii) nine hundred forty-five one-thousandths (0.945) or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(ix) for the two thousand twenty-two--two thousand twenty-three through two thousand twenty-four--two thousand twenty-five school years the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year four years prior to the base year and finishing with the year prior to the base year, excluding the two thousand twenty--two thousand twenty-one school year, of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(x) for the two thousand twenty-five--two thousand twenty-six school year and thereafter the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the

total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year three hundred and fifty dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred dollars, and (4) for the two thousand seventeen--two thousand eighteen school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars, and (B) for school years prior to the two thousand seventeen--two thousand eighteen school year, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (C) for school years following the two thousand sixteen--two thousand seventeen school years, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars.

(b) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this subdivision may be reduced pursuant to an agreement between the school and the charter entity set forth in the charter. Payments made pursuant to this subdivision shall be made by the school district in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this subdivision shall be determined by the commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation, and any necessary adjustments shall be made to payments during the school's second year of operation.

(c) School districts shall be eligible for an annual apportionment equal to the amount of the supplemental basic tuition for the charter school in the base year for the expenses incurred in the two thousand fourteen--two thousand fifteen, two thousand fifteen--two thousand sixteen, two thousand sixteen--two thousand seventeen school years and thereafter.

* NB Effective June 30, 2021

In the event of the failure of the school district to make payments required by this section, the state comptroller shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

Nothing in the Act shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations or grants of any kind made to the charter school and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

Charter School Basic Tuition (New York Education Law § 3602)

As referenced in §2856 of the Act, the amount calculated pursuant to §3602(1)(f) of the New York Education Law is “Expense per Pupil” which is defined as Approved Operating Expense for the year prior to the Base Year divided by the sum, computed using year prior to the Base Year pupil counts, of the Total Aidable Pupil Units plus Weighted Pupils with Disabilities. Expense per Pupil for each borough in the city school district of the City of New York shall be the Expense per Pupil of the entire city school district.

Certain definitions are set out below:

“Base Year” shall mean the school year immediately preceding the current year.

“Pupils with Disabilities” shall mean pupils of school age who are identified as students with disabilities pursuant to Article 89 (Children with Handicapping Conditions) of the New York Education Law and the regulations of the Commissioner and who receive special education services or attend special education programs which meet criteria established by the Commissioner, operated by a school district eligible for total foundation aid pursuant to this section or by a board of cooperative educational services, whether or not the school district is a component of such board.

“Weighted Pupils with Disabilities” shall mean the attendance, as defined in the regulations of the Commissioner, of pupils with disabilities who have been determined by a school district committee on special education to require any of the following types and levels of programs or services specified in this paragraph, and who receive such programs and services from the school district of attendance during the Base Year, multiplied by a special services weighting determined as follows:

(i) for placement for 60% or more of the school day in a special class, or home or hospital instruction for a period of more than 60 days, or special services or programs for more than 60% of the school day, the special services weighting shall be 170%;

(ii) for placement for 20% or more of the school week in a resource room or special services or programs including related services required for 20% or more of the school week, or in the case of pupils in grades 7-12 or a multi-level middle school program as defined by the Commissioner or in the case of pupils in grades 4-6 in an elementary school operating on a period basis, the equivalent of five periods per week, but not less than the equivalent of 180 minutes in a resource room or in other special services or programs including related services, or for at least two hours per week of direct or indirect consultant teacher services, in accordance with regulations of the Commissioner adopted for such purpose, the special services weighting shall be 90%.

“Total Aidable Pupil Units”.

- i. In such computation school districts may, with the commissioner's approval, exclude attendance for those days on which school attendance was adversely affected because of an epidemic or because of a religious holiday as provided in subparagraph two of paragraph b of this subdivision. For the purposes of

computing selected total aidable pupil units, a district may use either total aidable pupil units for the current aid year or the average of total aidable pupil units for the current aid year and the prior aid year, using current aid year definitions of total aidable pupil units for both years

- ii. A district's Total Aidable Pupil Units shall be the sum of the district's Adjusted Average Daily Attendance computed pursuant to this section for the year prior to the Base Year multiplied by the Enrollment Index computed pursuant to this section for the Base Year plus the Additional Aidable Pupil Units computed for the year prior to the Base Year under subsection (c) of this subdivision.

"Adjusted Average Daily Attendance" of a school district for any school year shall be computed as follows:

- (1) Adjusted Average Daily Attendance shall be determined by using the average daily attendance of public school pupils in a full-day kindergarten and grades 1-12 as the basic unit, with the attendance of such pupils in one-half day kindergartens measured at one-half of such basic unit. The sum of all such units of attendance shall be the Adjusted Average Daily Attendance.
- (2) In computing such attendance, the school district shall (i) determine the number of religious holidays which fall on a school day within a school year according to regulations established by the Commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days of session, by grade level; (iv) compute the Adjusted Average Daily Attendance for the school year.
- (3) In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to §4101(4) (duties of Commissioner regarding Indian children) of the New York Education Law or a pupil is living on federally owned land or property, such pupil's attendance shall be counted as part of the Adjusted Average Daily Attendance of the school district in which such pupil is enrolled.

"Additional Aidable Pupil Units. The Additional Aidable Pupil Units used to compute Total Aidable Pupil Units pursuant to this section shall be the sum of the attendance of summer session pupils multiplied by 12% and the Weighted Pupils with Special Educational Needs. Nothing contained in this paragraph shall be construed to result in the inclusion of the attendance of summer session pupils in the computation of weighted or Adjusted Average Daily Attendance pursuant to this section.

"Enrollment Index" shall be computed by dividing the public school enrollment for the current year by public school enrollment for the Base Year, both as defined in the New York Education Law, with the result carried to three places without rounding.

"Enrollment" shall mean the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs, as registered on the date prior to November first that is specified by the Commissioner as the enrollment reporting date for the school district or nonpublic school, as reported to the Commissioner.

“Public school district enrollment” shall mean the sum of: (1) the number of children on a regular enrollment register of a public school district on such date; (2) the number of children eligible to receive home instruction in the school district on such date; (3) the number of children for whom Equivalent Attendance must be computed pursuant to this Section on such date; (4) the number of children with disabilities who are residents of such district who are registered on such date to attend programs under the provisions of paragraph (c) of §4401(2) (children with handicapping conditions definitions) of the New York Education Law; (5) the number of children eligible to receive educational services on such date but not claimed for aid pursuant to §3202(7) (public schools free to resident pupils; tuition from nonresident pupils) of the New York Education Law; and (6) the number of children registered on such date to attend programs (i) pursuant to §355(2) (powers and duties of trustees – administrative and fiscal functions) of the New York Education Law or (ii) pursuant to an agreement between the New York City School District and Hunter College pursuant to §6216 of the New York Education Law.

“Equivalent Attendance” shall mean the quotient of the total number of student hours of instruction in programs in a public school of a school district or a board of cooperative educational services leading to a high school diploma or a high school equivalency diploma as defined in regulations of the Commissioner for pupils under the age of 21 not on a regular day school register of the district, divided by 1,000. Average daily attendance shall include the equivalent attendance of the school district. For the purposes of secondary school weighting, such equivalent attendance shall be considered as average daily attendance in grades seven through twelve.

“Approved Operating Expense” for the apportionments to any school district under the New York Education Law shall mean the amount computed as follows: The apportionment to any school district for operating expense shall be based upon the total expenditures from its general fund and from its capital fund and from its risk retention fund for purposes of employee benefit claims related to salaries paid from the general fund, and for any city school districts with a population of more than one hundred twenty-five thousand inhabitants its expenditures from the special aid fund of grant moneys for improving pupil performance and categorical aid for special reading programs as provided in the aid to localities budget during the applicable year as approved by the Commissioner, and in accordance with the classification of expenditures in use by the Commissioner for the reporting by school districts of receipts, expenditures and other financial data. For the purpose of this paragraph “Operating Expense” shall be defined as total cash expenditures during the applicable year, but shall exclude:

- (1) any balances and transfers;
- (2) any payments for transportation of pupils to and from school during the regular school year inclusive of capital outlays and debt service therefor;
- (2-a) a portion of any payments for transportation of pupils to and from district operated summer school programs pursuant to §3622-a(6) (aidable regular transportation) of the New York Education Law, inclusive of capital outlays and debt service therefor, equal to the product of such expenditures multiplied by the quotient of the total apportionment after the proration, if any, required by such subdivision 6 of the New York Education Law divided by the total apportionment prior to such proration;
- (3) any payments for capital outlay and debt service for school building purposes, provided, however, that in the case of a school district which has entered into a contract with state university pursuant to §355(2)(o) (conduct of research and experiments) of the New York Education Law, under which the school district makes payment to state university on account of capital outlay relating to certain children residing in such school district, such payments shall not be so excluded;

- (4) any payments for cafeteria or school lunch programs;
- (5) any proceeds of short-term borrowings in the general fund and any payments from the proceeds of the sale of obligations in the capital fund;
- (6) any cash receipts which reduce the cost of an item when applied against the expenditure therefor, except gifts, donations and earned interest and any refunds made;
- (7) any payments made to boards of cooperative educational services for purposes or programs for which an apportionment is paid pursuant to other sections of the New York Education Law, except that payments attributable to eligible pupils with disabilities and ineligible pupils residing in non component districts shall be included in operating expense;
- (8) any tuition payments made to other school districts inclusive of payments made to a central high school district by one of its component school districts;
- (9) any apportionment or payment received from the state for experimental or special programs paid under provisions other than those found in this section and other than any apportionments or payments received from the state by the city school district of the city of Yonkers for the purpose of funding an educational improvement program pursuant to a court order and other than any other state grants in aid identified by the Commissioner for general use as specified by the board of education pursuant to §1718(2) (limitation upon expenditures) of the New York Education Law;
- (10) any funds received from the federal government except the federal share of Medicaid subject to the provisions of §3600 (9-a) (moneys apportioned, when and how payable commencing July 1, 2007) of the New York Education Law and except Impact Aid funds received pursuant to Public Law 81- 874 or §§2 and 6 or any law superseding such law in any such district which received aid pursuant to both such sections; provided further, however, that there shall be excluded from such federal funds or other apportionments any payments from such funds already deducted pursuant to this paragraph;
- (11) any payments made for which an apportionment is disallowed pursuant to regulations of the Commissioner;
- (12) any expenditures made for accounting, tabulation, or computer equipment, in excess of \$10,000 unless such expenditures shall have been specifically approved by the Commissioner;
- (13) any rental payments received pursuant to the provisions of §403-a (leasing of school property) of the New York Education Law;
- (14) any rentals or other annual payments received pursuant to the provisions of §403-b (Leasing of school buildings and facilities) of the New York Education Law;
- (15) any expenditures made for persons 21 years of age or over attending employment preparation education programs pursuant to subdivision 11 of this section;
- (16) any tuition payments made pursuant to a contract under the provisions of §4401(2)(e) through (i) and (I) ("special services or programs" definition) of the New York Education Law or any tuition payments on behalf of pupils attending a state school under paragraph d of such subdivision;
- (17) in any year in which expenditures are made to the New York state teachers' retirement system or the New York state and local employees' retirement system for both the prior school

year and the current school year, any expenditures made to such retirement systems and recorded in the school year prior to the school year in which such obligations are paid; and

(18) any payments to the Commissioner of taxation and finance pursuant to Article 23 (Metropolitan Commuter Transportation Mobility Tax) of the tax law.

Public School District Payments to Charter Schools (N.Y. Comp. Codes & Regs. Title 8, §119.1(a), (b))

The following summarizes certain provisions of the New York Codes, Rules and Regulations concerning charter schools.

In the event of the failure of a school district to make payments to a charter school as required by §2856 of the New York Education Law, the Commissioner shall certify the amount of the unpaid obligation to the Comptroller to be deducted from any State aid payments which become due to such school district. The amount of each school district's obligation shall be calculated in accordance with this section.

For the purposes of this section:

(a) Legally absent means to be absent for: personal illness, illness or death in the family, impassable roads or weather, religious observance, quarantine, required court appearances, attendance at health clinics, approved college visits, military obligations, disciplinary detention of an incarcerated youth, or for such other reasons as may be approved by the Commissioner.

(b) Period of enrollment means that period commencing on the first day of the school year that a pupil is enrolled in and is physically present at, or legally absent from, an educational program or service of a charter school and ending on the last day of the school year that such pupil is so enrolled and physically present at, or legally absent from, such program or service.

(c) Enrollment for each charter school student shall mean the quotient, calculated to three decimals without rounding, obtained when the total number of weeks of the period of enrollment of such student is divided by the total number of weeks in the full school year of the educational program or service of the charter school. For the purposes of this section, three consecutive days of enrollment within the same week and within the same month shall be the equivalent of one week of enrollment, provided that no more than four weeks of enrollment may be counted in any calendar month.

(d) Levels of service shall mean the categories of programs for students with disabilities specified in §3602(19)(b)(1)-(4) of the New York Education Law.

(e) Approved operating expense shall mean the amount calculated pursuant to §3602(11) of the New York Education Law.

(f) Expense per pupil shall mean the amount calculated pursuant to §3602(1)(f) of the New York Education Law for the school district using year prior to the Base Year expenditures and pupils, as established by the Commissioner based on the electronic data file prepared by the Commissioner on June 5th of the Base Year pursuant to §305(21)(b) of the New York Education Law. Where the expense per pupil is not available for a school district, the expense per pupil shall be deemed to be the average expense per pupil for the county in which the school district is located.

(g) Adjusted expense per pupil shall be the district's expense per pupil increased by the percent change in the State total approved operating expense calculated pursuant to §3602(11) of the New York

Education Law from two years prior to the Base Year to the Base Year, as established by the Commissioner based on the electronic data file prepared by the Commissioner on June 5th of the Base Year pursuant to §305(21)(b) of the New York Education Law.

(h) State aid attributable to a student with a disability attending a charter school shall mean the sum of excess cost aid payable to a public school district pursuant to §3602(19)(4) of the New York Education Law based on the resident weighted enrollment in the charter school of pupils with disabilities receiving special services or programs provided directly or indirectly by the charter school in the current school year and any apportionment payable to such public school district pursuant to §3602(19)(5) of the New York Education Law that is based on the cost of special services or programs provided directly or indirectly by the charter school to such pupil in the current school year. Excess cost aid for the purposes of this section shall equal the product of excess cost aid per pupil calculated pursuant to §3602(19)(3) of the New York Education Law, the proportion of the weighting attributable to the student's level of service provided directly or indirectly by the charter school pursuant to §3602(19)(b)(1)-(4) of the New York Education Law, and the student's enrollment in such charter school in the current school year.

(i) Federal aid attributable to a student with a disability attending a charter school, and receiving special education services or programs provided directly or indirectly by the charter school, shall mean:

(i) for the first year of operation of the charter school, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 (United States Code, 1994 edition, Supplement III, Volume 2; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 1998 – available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1624, One Commerce Plaza, Albany, New York 12234) for a pupil who is identified as a student with a disability, as such term is defined in the New York Education Law §200.1, who is included in a report to the Commissioner of pupils so identified as of December 1st of the current school year, or for such other pupil count as specified by the Federal government for the current school year, provided that the enrollment of such students in the charter school during the current school year shall be used for this purpose until such report, or a report of such other pupil count, has been received by the Commissioner; and

(ii) for the second year of operation of the charter school and thereafter, the allocation that would be attributable to the charter school pursuant to 20 U.S.C. 1411 and 1419 (United States Code, 1994 edition, Supplement III, Volume 2; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 1998 – available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1624, One Commerce Plaza, Albany, New York 12234) for a pupil who is identified as a student with a disability, as such term is defined in the New York Education Law §200.1, who is included in a report to the Commissioner of pupils so identified as of December 1st of the Base Year, or for such other pupil count as specified by the Federal government.

Financial Obligations of Charter Schools, Public School Districts and Education Department (N.Y. Comp. Codes & Regs. Title 8, §119.1(c)–(e))

Charter school obligations:

(a) No later than 30 days prior to the first business day of July, September, November, January, March and May, each charter school shall report to each public school district with resident pupils attending the charter school and to the department an updated estimate of the enrollment of students attending the charter school in the current school year who are residents of such public school district and any reduced

amounts per pupil that shall be payable to the charter school for such students pursuant to subdivision one of §2856 of the New York Education Law that has been established pursuant to an agreement between the charter school and the charter school entity as set forth in the charter. For each student with a disability attending such charter school, such report shall also indicate the level of special programs or services to be provided directly or indirectly to such student by the charter school and an estimated annual cost to be incurred by the charter school in providing such special programs or services.

(b) On or before the last day of July, each charter school shall provide a final report of actual enrollment to the department and to each school district with resident pupils attending the charter school in the prior school year. For each student with a disability attending such charter school, such report shall also indicate the level of special programs or services actually provided directly or indirectly to such student by the charter school and the annual cost incurred by the charter school in providing such special programs or services.

(c) In the event of the failure of a school district to fulfill the financial obligation required by §2856 of the New York Education Law equal to the amounts calculated pursuant to this section, the charter school shall notify the Commissioner no later than May 31st of the school year in which the payments were due.

Public school district of residence obligations:

(a) No later than the first business day of July, September, November, January, March and May of the current school year, each public school district with resident pupils attending a charter school shall pay directly to such charter school the appropriate payment amounts as specified in subdivision one of §2856 of the New York Education Law that are attributable to the enrollment of such pupils as reported to the public school district by the charter school no later than 30 days prior to each such payment date.

(b) The total amount of payments due and payable to a charter school for the current school year by a public school district shall be paid as follows:

(i) on or before the first business day of July, one sixth of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year;

(ii) on or before the first business day of September, two sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraph (i) of this subsection;

(iii) on or before the first business day of November, three sixths of the total amount due, as adjusted for any supplemental payments due on overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i) and (ii) of this subsection;

(iv) on or before the first business day of January, four sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i), (ii) and (iii) of this subsection;

(v) on or before the first business day of March, five sixths of the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school

year, minus any payments made before such date pursuant to subparagraphs (i), (ii), (iii) and (iv) of this subsection and

(vi) on or before the first business day of May, the total amount due, as adjusted for any supplemental payments due or overpayments to be recovered for the prior school year, minus any payments made before such date pursuant to subparagraphs (i), (ii), (iii), (iv) and (v) of this subsection.

(c) The school district financial obligation per resident student enrolled in a charter school shall equal the sum of:

(i) the product of the school district's adjusted expense per pupil and the current year enrollment of the pupil in the charter school as defined in paragraph b(3) of this subsection; and

(ii) the amounts of State and Federal aid, if any, that may be attributable to such pupil as defined in paragraphs (b)(8) and (9) of this subsection, or the amount established pursuant to an agreement between the charter school and the charter entity as set forth in the charter.

(d) The total annual obligation due to a charter school by a public school district shall be the sum of the annual financial obligations for all resident students enrolled at any time during the current school year in the charter school.

(e) School districts shall include the enrollment of resident students attending charter schools in the enrollment, attendance and, if applicable, count of students with disabilities reported to the department for the purposes of claiming State aid.

Department obligations:

(a) On or before the first day of June of each year, or as soon as practicable upon the receipt of Federal notice of the estimated State appropriation for the next school year, the Commissioner shall notify all school districts and all charter schools of the adjusted expense per pupil of each public school district and the estimated per pupil allocation under part B of the Federal Individuals with Disabilities Education Act to be used in the calculation of payments due to charter schools in next school year. Notice of final Federal per pupil allocation will be issued as soon as practicable upon the State's receipt of the notice of final allocation from the Federal government.

(b) In the event of the failure of a school district to fulfill the financial obligation required by §2956 of the New York Education Law equal to the amounts calculated pursuant to this section, upon notification by the charter school, the Commissioner shall certify the amounts of the unpaid obligations to the comptroller to be deducted from State aid due the school district and paid to the applicable charter schools.

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APPENDIX B

ACADEMIC LEADERSHIP CHARTER SCHOOL

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APPENDIX B

THE CHARTER SCHOOL

General

Academic Leadership Charter School (the “Charter School”) is a New York education corporation incorporated by the Board of Regents of the State of New York (the “Board of Regents”) under Article 56 of the New York Education Law. The Charter School received its original charter from the Chancellor of the Department of Education (the “Department of Education”) of the State of New York (the “State”) as approved by the Board of Regents on February 10, 2009 for a five-year term through and including February 9, 2014 for the purpose of operating a charter school as described in further detail below. The Charter School is an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) which is exempt from federal income taxation under Section 501(a) of the Code (except with respect to “unrelated business taxable income” within the meaning of Section 512(a) of the Code) and (b) which is not a “private foundation” as defined in Section 509(a) of the Code). The Charter School’s bylaws provide that the Charter School is governed and controlled by a board of trustees (the “Board”). See “Governance and Management” below.

In 2020, the Charter School formed the Friends of Academic Leadership CS, LLC, a limited liability company organized and existing under the laws of the State of New York (the “Borrower”). The Charter School is the sole member of the Borrower. The purpose of the formation of the Borrower is to permit the Borrower to be the owner of the New Facility as hereinafter defined. The Charter School will lease the Land to the Borrower pursuant to the Ground Lease as hereinafter defined. The Borrower will construct and lease the New Facility to the Charter School pursuant to the School Lease as hereinafter defined. The Borrower is governed by the Board of the Charter School on account of the Charter School being the sole member of the Borrower.

The Charter School began operating in the 2009 academic year with approximately 150 students in grades Kindergarten and grade 1. The Charter School added one grade per year since 2009 until it reached grade 8 in 2016. The Charter School currently serves approximately 613 students in grades Kindergarten through grade 8 and anticipates growing enrollment to 980 students by the 2025-26 academic year to be located in the Elementary School (defined below) and in the New Facility (defined below), subject to a necessary future renewal of its charter authorizing such increased enrollment. The Charter School expects to receive such necessary authorization for the increased enrollment in its next charter renewal. The Charter School aligns with the Department of Education’s calendar, with the exception of one professional development day being a regular, full day of instruction. The Charter School’s academic year includes a minimum of 180 days of instruction for all grades. For students in grade 1 through grade 7, the Charter School offers an extended year summer program which runs on a half day schedule for three weeks in July. The Charter School’s academic day begins at 7:15 am and concludes at 4:00 pm, providing an additional period of academic enrichment for all of its students.

The Charter School teaches students residing primarily in New York City’s Community School District 7 (the “District”) within the Bronx, New York (the “State”). The Charter School initially entered into its original charter on February 10, 2009 with the Department of Education for a five-year term, as approved by the Board of Regents with original maximum enrollment of 350 in grades K-5. After receiving its initial Charter in 2009, the Charter School applied for and was approved for charter renewal from the Board of Regents in 2014, for an additional five year term with maximum enrollment of 500 in grades K-8. On April 7, 2017, the Charter School applied for and was subsequently approved to change authorizers from the Board of Regents to the State University of New York Charter School Institute (“SUNY CSI”). Prior to expiry of the Charter School’s charter with the Department of Education, SUNY CSI renewed the Charter School’s charter on June 30, 2018 for a five-year term through June 30, 2023 to operate grades K-8 with a maximum enrollment of 600 students. SUNY CSI permits enrollment of up to 20% above the stated Charter maximum, totaling 720 students. The Charter School’s charter as so renewed by SUNY CSI, shall hereinafter be referred to as “Charter.”

Mission Statement

The Charter School's mission is to develop in students the ability to exceed New York State performance standards in all major academic areas in a safe and nurturing environment. In partnership with parents and the community, students are empowered to become leaders and take an active role in their learning while exhibiting good character. The Charter School has set very high academic performance goals for its students and has striven to meet those goals by providing a strong and differentiated instructional program. The Charter School focuses on providing students with a quality educational program that allows them to develop and demonstrate College and Career Readiness by meeting or exceeding New York State Common Core Standards through a strong curriculum.

The Charter School believes and has demonstrated that all students can achieve academic success in a nurturing, academically rigorous, and emotionally supportive environment. The Charter School promotes parental and staff involvement in school governance by establishing committees to discuss all areas of the Charter School's program and get feedback on how the school community can better improve methods used to implementing the Charter School's mission.

Philosophy / Vision

The Charter School envisions a school that has high expectations for every student and challenges each student to surpass all of the State's learning standards. The Charter School believes that parent participation is a crucial and necessary component for student success. The Charter School works closely with families to provide a quality character education program that develops students who are problem solvers and critical thinkers. The intellectually challenging and standards-based curriculum is enriched by the Charter School's extended day program which offers substantially more instructional time focusing on Literacy to develop conceptual understanding in all academic areas. The Charter School promotes the development of critical thinking, perseverance, ethics, character, and leadership through its tiered curriculum program. The Charter School provides a broad-based education for all students, focusing on developing good character as well as comprehension and analytical skills across all disciplines, ranging from the fundamentals of reading and mathematics to fine arts, physical education, drama and dance.

Curriculum

The Charter School has implemented instructional best practices which include differentiated inquiry-based learning, an extended school day, and a variety of assessments to measure on-going student progress in skills and content learning, and support for teachers with professional development opportunities aligned with the instructional program. The Charter School's calendar provides at least 180 instructional days for students and a 10 day pre-service training for teachers in the summer prior to each academic year.

The Charter School uses a comprehensive literacy approach focusing on teaching the fundamentals of reading comprehension, listening, and writing. The literacy program provides explicit instruction and practice and consists of the five essential components of reading: phonemic awareness, phonics, and fluency, vocabulary in context and text comprehension. Students receive specific instruction on writing incorporating grammar and language arts skills. The Charter School's writing model is generated as a collective and joint effort between the students and teacher. Together, the teacher and students formulate writing paragraphs where students contribute their individual sense of voice, demonstrate a learned understanding of the writing process, and memorialize the importance of revision skills. The Charter School utilizes SRA Imagine It!, Pearson's Readygen, Pearson Literature and supplemental fiction and nonfiction story books, short stories and articles as part of the literacy program.

The Charter School mathematics curriculum uses a wide variety of research based programs for its instruction, with Pearson's Investigations being the primary program at the Elementary school and Pearson's Connected Mathematics Project being the primary program at the Middle school. The Charter School further supplements the mathematics curriculum with Curriculum Associates Ready NY Mathematics, NYSED'S Engage NY curriculum, and Triumph Progress Mathematics workbooks that together reinforce mathematic fundamentals including addition, subtraction, multiplication, division and fractions.

In science, the Charter School emphasizes understanding and applying scientific concepts, principles and theories pertaining to the physical setting and living environment through the use of the scientific method and research based instruction. The Charter School utilizes the research based program, Scott Foresman Science, along with hands

on investigations and experimentation to explore topics that include nature, plants and animals. The science program also uses supplemental nonfiction trade books, historical fiction books, and articles from National Geographics for Kids to teach students how to draw scientific conclusions based on experimental results.

The Charter School uses an interdisciplinary approach to social studies, history and civil learning and engagement. This approach provides students the opportunity to use picture books and other visual aids to help students learn about world and its inhabitants including global physical geography. The curriculum is learning-centered, age appropriate, and inquiry-based where students actively construct rather than passively receive knowledge. As students' progress through each grade level, the historical references used in social studies similarly develop to reflect age appropriate content. The Charter School uses SRA Mc-Graw Hill as the baseline social studies curriculum in conjunction with the Charter School's in house thematic curriculum.

Students learn to use technology as a tool throughout the academic day. The Charter School utilizes technology programs such as I-Ready to enhance the literacy and mathematics curriculum where students can engage in online reading and mathematics activities differentiated to align with students' literacy and mathematics levels. Computers are utilized for word processing, creating PowerPoint presentations, and charting and graphing data related to projects and internet based research, and retrieving information from the internet.

The Charter School reinforces students' abilities to make observations related to theme, setting and mood within varying works of art. Through the art program, students learn about the historical context of both artist and art works including major genres and themes that include activism, form, color and space. Annually, the Charter School hosts multiple shows and performances showcasing students' creative abilities and talents that strengthen inner self-confidence. The Charter School ensures students generate higher-self-esteem by creating works of arts as well as honing in on their ability to problem solve and overcome obstacles. The art curriculum strives to make for a well-rounded education coupled with visits to local museums such as the Metropolitan Museum of Art, The Cloisters and The Guggenheim Museum allowing students an opportunity to draw, write, and discuss the works they've learned in class.

Physical education introduces and explains the importance of how to maintain a healthy lifestyle through exercise and healthy eating habits. Physical education teachers provide exercise and sports instruction both inside and outside of the classroom by reinforcing reading comprehension and analyzation skills through articles about the importance of healthy lifestyle choices. The Charter School continues to underscore the importance of physical health and education through its after-school Boys and Girls basketball team. The Charter School basketball team provides students an opportunity to play competitively in a city basketball league exclusively for New York City charter schools. The Charter School boys basketball team won the Bronx Championship in 2020.

The Charter School uses a character education program to focus on monthly themes such as friendship, trustworthiness, perseverance and citizenship. The Charter School reinforces each trait and the importance of good character building and ethical decision making through trade books and peer discussions. Continuous exposure to character education literature reinforces coping skills necessary to meet challenges students encounter both in school and in the world. In addition, the Charter School has offered after-school character development sessions to support students who are looking to build confidence and develop conflict resolution skills, while addressing at home difficulties and social-emotional conflicts.

Parent involvement is one of the Charter School's primary priorities. Teacher and parent communication is continuous throughout the academic year. In addition to annual review meetings for students with Individual Education Plans ("IEP's"), teachers meet frequently with parents to discuss student goals, benchmarks, and provide additional social and emotional support, when necessary to contribute to the holistic growth and development of all students.

The Charter School offers extra-curricular activities that contribute to students physical, mental and emotional health including an after-school drama club and an art club.

Recent Accomplishments

The Charter School has regularly been recognized for its accomplishments including the following highlights from recent past academic years:

The Charter School received the 2019 National Blue Ribbon Schools Award in the nomination category of Exemplary High Performing School because its highest achieving students scored in the top 15% in English Language Arts and Mathematics as measured by state assessments.

The Charter School received an “Excellent” rating for Student Achievement, Rigorous Instruction, and a Supporting Environment according to the Department of Education 2018-19 Quality Snapshot.

The Charter School has outperformed the District averages for the past nine academic years in English Language Arts and Math and has outperformed the City and State averages in both English Language Arts and Mathematics for the past six academic years.

The Charter School received Recognition School Awards for the 2017-18, 2018-19, and 2019-20 academic years. Under the Every Student Succeeds Act (“ESSA”) plan, Recognition Schools are those with high academic achievement and strong progress that also perform acceptably for all subgroups for which they are accountable. To be identified as a Recognition School, a school must: have an accountability status of Good Standing; have a Level 4 for the Combined Composite Performance and Growth indicator for elementary and middle schools; or a Level 4 for the Combined Composite Performance and Graduation Rate for high schools for the All Students group; not have a Level 1 for any accountability indicator for English Language Arts (ELA) and Mathematics progress; Chronic Absenteeism; English language Proficiency; College, Career, and Civic Readiness for High Schools for the All Students group; not have any subgroups that were identified as Potential Targeted Support and Improvement (PTSI) based on 2018-19 academic year results; and not have a 2018-19 Participation Rate for ELA or Math for the All Students group that is less than 95%. If a school did not have enough students to receive a participation rate, the school is still eligible to be identified as a Recognition School.

Existing Facilities

The Charter School currently occupies space rent-free at two Department of Education public school buildings located at 677 East 141st Street Bronx, NY 10454 (the “Elementary School”) and 470 Jackson Avenue, Bronx, NY 10454 (the “Middle School” and together with the Elementary School, the “Existing Facilities”). The Charter School houses grade Kindergarten through grade 4 at the Elementary School with a maximum approximate occupancy capacity of 457 students. The Charter School shares the Elementary School with public school (“PS”) PS65 Mother Hale Academy. In the Elementary School, the Charter School occupies 14 classrooms.

The Charter School uses classrooms on all floors in the Elementary School that are mostly located in one wing of the building. Charter School students are easily identified due to the Charter School uniform. All Elementary School students are escorted throughout the building by their classroom teachers and are not permitted to be unescorted at any time. The Charter School houses grade 5 through grade 8 at the Middle School with a maximum approximate occupancy capacity of 325 students. The Charter School shares the Middle School with University Prep Charter Middle School and J.M. Rapport School for Career Development. In the Middle School, the Charter School occupies one wing of the third floor consisting of 11 classrooms.

Both Elementary School and Middle School students enjoy shared spaces in the gymnasium, cafeteria and auditorium based on a shared space schedule preventing Charter School students from intermingling with other students. Pursuant to the terms of co-location in both the Elementary School and Middle School, the Charter School is given a specific number of rooms to use in both buildings and is afforded the same access rights as the other co-located traditional public schools. The Charter School does not share any expenditures with other public schools in either the Elementary School or the Middle School and is not subject to any regulatory provisions that would require the Charter School to move as long as the Charter School continues using the Charter. Following the completion of the New Facility as defined below, the Charter School will continue to operate Kindergarten through grade 2 in the Elementary School and grade 6 through grade 8 in the Middle School. The New Facility described below will house grade 3 through grade 5 with capacity for approximately 600 students. See Table B-2: “Historical and Future Projected Enrollment by Grade Level.”

The following provides a map of the location of the Charter School’s Existing Facilities and New Facility below. The Existing Facilities and the New Facility are within 1.0- mile distance from the other.



Photos of the Existing Facility are set forth below.

Elementary School: 677 E. 141st Street



Middle School: 470 Jackson Avenue



The Project and the New Facility

The Series 2021 Bonds are being issued to pay all or a portion of the costs of (A) the construction and equipping of an approximately 60,000 square-foot seven story building plus sub-surface parking garage and rooftop play space (the “Improvements”) to be constructed on an approximately 0.29 acre parcel of land located at 356-62 E. 139th Street, Bronx, NY 10454 (the “Land”) to provide approximately twenty-eight classrooms, three special education classrooms, a nurse office with a coat room, a gymnasium with bleachers as well as a raised platform for theatrical performances, two student locker rooms, one dining hall with full kitchen and an outdoor rooftop terrace, one library with a computer area, teacher offices and administrative offices, and one rooftop play space as well as a subgrade parking garage with approximately 18 parking spaces to provide educational and related space for students in grades 3 to 5; (B) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the “Equipment”; and, together with the Land and the Improvements, the “New Facility”); and (D) funding a debt service reserve fund, if any, and paying capitalized interest, if any, and paying of certain costs and expenses incidental to the issuance of Series 2021 Bonds (collectively, the “Project”).

The Charter School purchased the Land in March 2016 for approximately \$3.3 million. The Charter School will lease the Land to the Borrower pursuant to the Ground Lease for a term of at least 15 years and is expected to contribute up to \$19.5 million in equity to the Borrower to be used in addition to a portion of the proceeds of the Series

2021 Bonds to complete the Project. The Borrower and the Charter School anticipate that the New Facility will provide capacity for and can accommodate approximately 600 students, housing grades 3 through 5 beginning in the 2023-24 academic year. The New Facility is expected to be completed and placed into service by approximately the Spring of 2023. The Borrower will construct and lease the New Facility including the Land to the Charter School pursuant to the School Lease for a term of at least 15 years that will not be less than the term of the Series 2021 Bonds. The Charter School is expected to purchase certain furniture fixtures and equipment for the New Facility from its equity.

Phase I and Phase II Environmental Studies

Phase I Environmental Site Assessment

On January 21, 2016, PVE Sheffler, LLC submitted a Phase I Environmental Site Assessment (“Phase I ESA”) to the Charter School. The purpose of this Phase I ESA was to identify recognized environmental conditions including the presence or likely presence of any hazardous substances or petroleum products in, on, or at the site of the New Facility due to a release to the environment, under conditions indicative of a release to the environment, or under conditions that post a material threat of a future release to the environment. Consideration was given to the potential impacts to soil and ground water. The Phase I ESA report revealed no evidence of recognized environmental conditions in connection with the Charter School. The physical setting of the site of the Charter School was evaluated by consulting regional maps and other sources. According to the Central Park, New York USGS topographic map, the Charter School is approximately 33 feet above mean sea level. The Phase I ESA identified a vapor encroachment condition existing at the Charter School because several dry cleaning establishments and automotive repair facilities operate nearby. Sites such as these generate waste which if handled improperly have the potential to contaminate local soil and or groundwater, which can result in a potential vapor intrusion condition.

Phase II Environmental Site Assessment - Vapor Intrusion Evaluation

As recommended by PVE Sheffler, LLC, the Charter School received a vapor intrusion evaluation on February 29, 2016. The evaluation recommended that the Charter School incorporate a barrier compatible with existing compounds into future foundation design, including proper excavation handling and off-site disposal of excavated materials and design and installation of an appropriate vapor mitigation system. The Construction Contract includes removal of the contaminated soils identified in the vapor intrusion evaluation and installation of a barrier to mitigate future contamination.

Copies of the above-referenced environmental reports are on file with the Borrower and are available upon request.

The following table below Table B-1 outlines estimated project costs.

| TABLE B-1: ESTIMATED PROJECT COSTS | |
|---|---------------------|
| | Amount* |
| Structural | \$ 8,000,000 |
| Architectural/Sitework | 16,200,000 |
| Plumbing, HVAC, Electrical, Fire Protection, Security | 7,000,000 |
| Permits | 300,000 |
| Owner’s Insurance | 100,000 |
| Estimated Project Contingency | 2,000,000 |
| Other (architectural and engineering services, FF&E, soft costs, etc. | 3,602,000 |
| Total Estimated Project Costs | \$37,202,000 |

* The Charter School intends to contribute \$19.5 million of cash towards the project at bond closing. Additionally, the Charter School has expended approximately \$2.46 million in soft costs and expects to expend approximately \$630,000 for the acquisition of FF&E and \$500,000 for Information Technology upgrades to be owned by the Charter School.

Set forth below are renderings of the proposed New Facility.

Exterior Perspective



Gymnasium



Classroom



Library



Ground Lease

The Borrower will obtain on or prior to the Closing Date a leasehold interest in and to the Land from the School, pursuant to the Ground Lease. The term of the Ground Lease will be at least 15 years. The Ground Lease may not be terminated or amended without the consent of the Issuer and the Trustee.

School Lease

On or prior to the delivery of the Series 2021 Bonds, the Borrower and the Charter School will enter into a lease agreement (the “School Lease”) for the New Facility including the Land for an initial term of at least 15 years and is not subject to early termination. Under the School Lease, the Charter School, as lessor, must pay rent to the Borrower, as lessee, that will include (i) the amounts due and payable to the Issuer, or the Trustee, for payment of principal, sinking fund installments and interest on the Series 2021 Bonds and (ii) the amounts payable at the same times as specified for payments of such amounts in the Loan Agreement. During the term of the School Lease, the Charter School will have full use of the New Facility in furtherance of its mission as a charter school. Moneys deposited by the Trustee in the funds and accounts held under the Indenture from time to time on account of lease payments shall be credited against lease payments payable thereunder as if paid directly by the Charter School to the Borrower. In the event of a default under the Series 2021 Bonds, the Trustee’s remedies permit the Trustee at the direction of the Bondholders without the consent of the Borrower, to foreclose on the Mortgage.

Project Construction

Contractor

The Charter School has entered into an agreement for the construction of the New Facility (the “Construction Contract”) with Signature Construction Group, Inc., New York (the “Contractor”). The Contractor is a New York City based general contractor that was established in 1990 and maintains its reputation as a premier builder of charter schools in the New York City area. The Contractor has completed over 15 educational facilities in both New York and Connecticut totaling over 500,000 sq. ft. A sample of educational buildings built by the Contractor include Boys’ Prep Bronx Elementary School, South Charter Bronx Charter School, and the Mott Haven Academy. In addition to out-of-the ground construction, the Contractor has performed interior restorations for dozens of schools in the past decade alone, including the Brilla Charter School, the Family Life Academy Charter School, and AHRC New York City schools.

Construction Contract

Pursuant to the Construction Contract, the Contractor and the Charter School have entered into a fixed price agreement to construct the New Facility at a contract price of \$31,200,000 with the ability of the Charter School to request change orders. Upon execution of the Construction Contract, the Contractor became contractually bound to provide labor and materials for the New Facility and to complete construction at the fixed price, including change orders, subject to certain alternates limitations and exclusions as set forth therein.

The Charter School will require payment and performance completion bonds to be secured in connection with construction of the New Facility. In general, the Charter School anticipates that such payment and performance completion bonds will be sufficient to cover costs associated with transferring a project to a subsequent contractor if and to the extent the originally selected contractor is unable to finish or complete a project as planned. Liquidated damages will not be included in the Construction Contract.

Architect

The Charter School entered into an agreement (the “Architect Agreement”) with Peter Gisolfi Associates, Architects-Landscape Architects LLP located at 566 Warburton Avenue, Hastings on Hudson, New York (the “Architect”), pursuant to which the Architect has agreed to perform certain design and construction administration and management tasks with respect to construction of the New Facility. Founded in 1975, Peter Gisolfi Associates is an Architecture and Landscape Architecture firm based in Hastings-on-Hudson, NY. Design disciplines included by Peter Gisolfi Associates and its Consultants retained for this project include: Architecture, Mechanical, Electrical, Plumbing, Fire Alarm Engineering, Food Services, Structural Engineering, Elevator, Planning and Interior Design.

Under the Architect Agreement, the Architect is required to design the New Facility in accordance with all local, state, and federal codes and standards. Moreover, the Architect is required to perform certain ongoing administrative responsibilities, including visiting the site at appropriate intervals to become familiar with the progress and quality of work, reviewing and certifying amounts due to the General Contractor, and advising the Charter School in writing regarding rejection of non-conforming work. The Architect and Owner’s Representative (defined below) will provide sign-off on construction fund disbursements.

Owner’s Representative

The Charter School has entered an agreement (the “Owner’s Representative Agreement”) with D. Haller, LLC, a Pennsylvania based LLC (the “Owner’s Representative”), pursuant to which the Owner’s Representative has agreed to monitor and advise the Charter School regarding the status of the construction schedule and cost, as well as the quality of design and construction. In this role, the Owner’s Representative will provide project oversight to facilitate the Charter School’s review of the ongoing viability of construction from a cost perspective, as well as provide the Charter School with input and options regarding alternatives for enhanced economic efficiency and cost savings proposals, including coordinating lien waivers from contractors. In this role, the Owner’s Representative will also assume responsibility for all day-to-day communications, inquiries and information requests from project vendors. Both the Architect and Owner’s Representative are responsible for reviewing and approving Project construction invoices. The Owner’s Representative has managed over one billion dollars of construction in New York

City over a 37 year career, and is currently managing approximately 300,000 square feet of renovation and new construction.

The Construction Contract, Architect Agreement and Owner's Representative Agreement will be collaterally assigned to the Trustee. Copies of the Construction Contract, Architect Agreement and Owner's Representative Agreement are available upon request.

Permitting, Design and Construction Schedule

The Architect submitted a Site Plan Application to the New York City Board of Standards and Appeal ("BSA") and public hearings were held on March 27, 2018, October 11, 2018, January 8, 2019, and February 26, 2019. The proposed site plan was subsequently approved by the BSA on February 26, 2019. The Architect completed the construction documents and submitted stamped and signed drawings for review to the NYC Department of Buildings ("NYC DOB") on April 30, 2020. The foundation permit necessary for the construction of the foundation of the New Facility was issued in April 2021 and the building permit necessary for the construction of the rest of the New Facility will be issued by May 2021.

The Architect completed architectural construction documents for the New Facility and a fixed price contract was entered into on March 12, 2021. The construction of the New Facility commenced in May, 2021 and is anticipated to be completed by April 2023.

The Borrower and the Charter School have entered into access agreements (the "Access Agreements") with all the owners of all 8 properties adjacent to the Land to permit proceeding with the construction of the New Facility. Pursuant to the Access Agreements, the Borrower will have access to the properties adjacent to the Land for the purpose of installing fencing to protect neighbors' property, as required by the New York City Building Code. Currently only 7 of the Access Agreements are in place. The Borrower anticipates that all 8 Access Agreements will be in place prior to the targeted start of construction.

Despite the above-described precautions, there are always risks associated with new construction. See generally "RISK FACTORS – Construction Costs and Completion of Construction." For example, even though the Construction Contract contains a fixed price, there can be no guaranty that actual construction costs will not exceed such amount, and hence exceed the amount available to the Charter School for construction purposes. Further, contingency amounts may be insufficient to cover additional costs arising due to factors such as unforeseen site conditions or contract omissions. In addition, although payment and performance completion bonds will be required to protect against costs associated with transferring a project to a new contractor, disputes can arise as to their enforcement and in any event they cannot protect against timing delays when projects run into difficulty (due to performance of contractors or any other reason). Such timing delays could cause operational difficulties for the Charter School.

There are potential risks relating to environmental liability associated with the ownership or operation of, or secured lending with respect to, any real property. See "APPENDIX B-1: ENVIRONMENTAL ASSESSMENTS" for a summary of environmental assessments previously performed on the New Facility.

Charter

General

The New York State Education Law provides for the creation of charter schools to provide opportunities for teachers, parents, and community members, and to establish and maintain schools that operate independently of existing schools and school districts in order to: (i) improve student learning and achievement; (ii) increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure; (iii) encourage the use of different and innovative teaching methods; (iv) create new professional opportunities for teachers, school administrators and other school personnel; (v) provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and (vi) provide schools with a method to change from rule-based to performance-based accountability systems by holding charter schools accountable for meeting measurable student achievement results. A charter governs such matters as

the recipient's authority to operate, student performance, financial management, and governance and operations. Pursuant to New York State Education Law § 2851-1-3, the term of a proposed charter cannot exceed five years.

As noted, the Charter School initially entered its Charter with the Department of Education on February 10, 2009 for a term of five years. On April 7, 2017, the Charter School applied for and was subsequently approved to change authorizers from the Board of Regents to the State University of New York Charter School Institute ("SUNY CSI").

In 2018, SUNY CSI prepared a renewal report (the "Renewal Report") which included a recommendation to the SUNY Trustees for the five-year, or "full-term" renewal of the original charter. The Renewal Report describes a full-term renewal as warranted in cases where a school has demonstrated exceptional results with its students, and where the school has met the following renewal benchmarks, including but not limited to, (i) whether the school has shown that its program has yielded strong student performance and progress in its academic accountability goals, (ii) whether the school has developed an assessment system that improves instructional effectively and student learning, (iii) whether the school has developed curriculum that supports teachers in their instructional planning, (iv) whether the school remained faithful to its mission and implemented key design elements included in its Charter, (v) whether the school board implements, maintains and abides by appropriate policies, systems and processes that met the majority of its charter goals, and (vi) whether the school demonstrates financial stability and provides a reasonable and achievable fiscal plan for its facility.

Prior to expiry of the Charter School's charter with the Department of Education, the SUNY CSI renewed the Charter School's charter on June 30, 2018 for a five-year term through June 30, 2023. Maximum enrollment under the current Charter, as renewed, is 600 students in grades Kindergarten through grade 8. SUNY CSI permits enrollment up to 20% above the Charter School's stated maximum enrollment, for a total enrollment of 720 students. In the 2022 academic year, the Charter School plans to apply for and expects to receive from SUNY CSI, the Charter School's authorizer, additional approval for increased enrollment to accommodate approximately 980 students.

Charter Renewal

To apply for renewal, SUNY CSI authorized charter schools must apply and submit comprehensive documentation evidencing a case of growth and increase in student achievement over the life of the charter. The charter school must also demonstrate existing systems in place that would contribute to continuing growth. The State of New York Board of Trustees ("SUNY Trustees") evaluate charter schools using the data based on the school in conjunction with four questions included in the SUNY Renewal Benchmarks which are: Is the school an academic success? Is the school an effective, viable organization? Is the school fiscally sound? And If the school's charter is renewed, what are its plans the next charter term, and are they reasonable, feasible and achievable?

For the first benchmark, SUNY Trustees determine whether the charter school has met or come close to meeting its academic goals, whether the charter school utilizes an assessment system that improves instructional effectiveness and student learning, whether the charter school meets the educational needs of at-risk students, and whether the charter school maintains strong instructional leadership. For the second benchmark, SUNY Trustees rate the parent and student satisfaction demonstrated in each charter school, identify the organizational capacity and structure for the charter school including whether a robust, engaged and supportive board of trustees, abides by its by-laws and conflict of interest policies, and assess whether the charter school demonstrated substantial compliance with applicable state local laws and the key design elements of the charter school's charter. The third benchmark requires charter schools to operate pursuant to a long term financial plan that creates realistic budgets, comprehensive written fiscal policies and procedures; to comply with financial recording requirements by providing SUNY Trustees and the Department of Education annual statements, reports, and cash flow statements; and to maintain sufficient liquid reserves to fund expenses in the event of income loss.

Charter Revocation

The Charter School's Charter may be terminated by the Board of Education upon any of the following statutory grounds:

- (i) if the Charter School's outcome on student assessment measures adopted by the Board of Regents falls below the level that would allow the Commissioner of Education to revoke the registration of

another public school, and student achievement on such measures has not shown improvement over the preceding three academic years:

- (ii) serious violations of law;
- (iii) material and substantial violation of the Charter, including fiscal mismanagement; or
- (iv) if the New York Public Employment Relations Board makes a determination that the Charter School demonstrates a practice and pattern of egregious and intentional violations of subdivision one of §209-A of the New York Civil Service Law involving interference with or discrimination against employee rights under article fourteen of the New York Civil Service Law.

The State Education Law provides that notice of intent to revoke a charter must be provided to the board of trustees of a charter school at least 30 days prior to the effective date of the proposed revocation. Such notice must include a statement of reasons for the proposed revocation. The charter school must be given at least 30 days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school must be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school is required to proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the Board of Regents.

In addition, the charter entity or the Board of Regents may place a charter school falling within the provisions of (i) through (iv) above on probationary status to allow the implementation of a remedial action plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

Governance and Management

The Charter School operates as a New York education corporation and as such is governed by the law applicable to such entities as well as its bylaws. The Charter School's bylaws provide that the Charter School is managed, controlled and directed by a board of trustees (the "Board"). The Board ensures all systems and structures are in place for an effective operation. The Board also oversees and assesses the Charter School's educational progress and works to raise funds to meet operational and capital needs, including managing and developing the annual operational budget and demonstrate financial viability to an independent auditor.

Board of Trustees

The Charter School's bylaws provide that the Board shall conduct or direct the affairs of the Charter School and exercise its powers, subject to the New York Education Law (the "Education Law"), the New York Not-for-Profit Corporation Law (the "NPCL"), the Charter School's charter and bylaws. The Board shall have all such powers enumerated for boards of directors under the Education Law, the NPCL, the Charter School's Charter and these Bylaws, including, but not limited to, the following specific powers: to conduct, manage and control the affairs and activities of the Charter School and to make rules and regulations; to enter into contracts, leases and other agreements which are, in the Board's judgment, necessary or desirable in obtaining the purposes of promoting the interests of the Charter School; and to borrow money, incur debt, and to execute and deliver promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities.

The Board shall consist of not less than five or more than nine trustees. The Board shall be divided into two classes for purposes of staggering their terms of office. The terms of office of the first class expire at the second succeeding annual meeting of the Board and the second class at the third succeeding annual meetings. Following the expiry of these initial terms, the term of each Board trustee shall continue for two years, provided that the Board trustee is not a parent of a child enrolled at the Charter School, otherwise the term of such Board trustee shall be limited to one year.

An annual meeting shall be held in the month of June of each year for the purpose of electing Trustees making and receiving reports on corporate affairs, and transacting such other business. The Board holds at least twelve business meetings annually to conduct, manage, and control the affairs and activities of the Charter School on the business of the Charter School including but not limited to acquiring real or personal property, entering into contracts,

leases and other agreements which are desirable to promote the interest of the Charter School, and selecting and removing agents and employees of the Charter School. Presently, the Board oversees the following committees: Finance, Education, Development, and Facilities. Currently, there are five Board Trustees. Brief biographical information pertaining to current trustees of the Board is provided below.

James Sander, Board Chair

James Sander has served on the Board since November 2013 and currently serves as Chair of the Board. Mr. Sander received a Masters of Science Degree in Elementary Education from the City College of New York and a Masters in Education from Teachers' College at Columbia University. Mr. Sander has served in numerous leadership roles in the education space, and has received State certifications to serve in the roles of principal of a day elementary school and assistant principal of a day elementary, intermediate and junior high schools. Mr. Sander has experience in organizing and creating fitness programs, nutritional education choice programs, and teacher-pupil counseling programs. Mr. Sander is a mentor to all students and continues to remain a leader in his local community. Mr. Sanders term expires April 2022.

Christopher Brignola, Vice Chair

Christopher Brignola has served on the Board since August 2017 and currently serves as the Vice Chair of the Board. Mr. Brignola received a Master of Science in Teaching Childhood Education from Pace University and is currently pursuing a Doctor of Professional Studies Degree in Computing for Education Professionals at Pace University. Mr. Brignola has experiences as a general classroom teacher for elementary and middle school students in Math, Science and ELA. Mr. Brignola has experience in data collection, data sourcing and data reporting for schools in the State. Mr. Brignola is a leader and has substantial experience implementing data tracking processes for standards based analysis. As Vice Chair, Mr. Brignola supports Mr. Sander in executing and carrying out the varied responsibilities of the Board that collectively contribute to the Charter School's success. Mr. Brignola's term ends October 2021.

Lucas Doe, Treasurer

Lucas Doe joined the Board in December 2015 and currently serves as Treasurer of the Board. As a certified financial accountant, Mr. Doe lends his experience in financial services sector to the Board and related Finance Committee. Mr. Doe received a Masters in Electrical Engineering and Applied Science and a Masters in Business Administration with a concentration in Finance from the University of Virginia. Mr. Doe's areas of expertise including investment planning and portfolio management. Mr. Doe's term ends December 2021.

Robert Ansbro, Member

Mr. Ansbro is a graduate of Westchester Community College and has substantial experience in construction including his roles as President of the New York Roofing Company and an estimator for Eagle One Roofing. Mr. Ansbro has experience as a superintendent of various residential properties in New York. Mr. Ansbro is committed to volunteer work including his role as Board Member of the Building Trades Employment Association and President of the Subcontractors Trade Association. Mr. Ansbro joined the Board in September 2019. Mr. Ansbro's current term ends September 2021.

Mark Keye, Member

Mr. Keye received a Bachelor of Science Degree in Biology from Morehouse College and a Masters in Business Administration from Northeastern University. Mr. Keye is presently the general manager of the New York Tennis Club and is responsible for all client facing and operational business. Mr. Keye is also responsible for financial management and drafting executive reports detailing net operating losses. As a Board member, Mr. Keye supports all missions and goals of the Charter School. Mr. Keye is fueled by his passion for education and long-term commitment to contributing to ensure young men and women advance into adulthood as productive citizens and spread their gifts globally. Mr. Keye joined the Board in February 2020. Mr. Keye's current term ends February 2022.

Ted Hurwitz – Co-Founder & Ex-Officio Member

Ted Hurwitz is the co-founder of the Charter School has been an ex-officio member of the Board since its planning stages from 2006-09. Mr. Hurwitz is a product of the NYC school system graduating from Bronx Science High School and the City University of New York (“CUNY”). Mr. Hurwitz holds a Mathematics degree from CCNY and was a systems analyst developing computer programs for federal and corporate entities including the Saber System developed by the airlines at the inception of computers. Mr. Hurwitz was instrumental in the formation of the Charter School, attending daily training sessions for professional development program for new school leaders at the NYC Charter School Center and co-authored the Charter School’s Charter incorporating legal and financial requirements of the State and the Department of Education.

Mr. Hurwitz is the Chair of the Real Estate Committee and has worked to identify space for the New Facility in addition to being part of all aspects related to real estate, including the Project. Although Mr. Hurwitz does not formally vote on Charter School wide policies, his input is critical in all decisions as they are developed and subsequently presented to the Board for deliberations. Mr. Hurwitz provides daily support in all aspects of the Charter School’s decision making and is copied in all leadership communications. Mr. Hurwitz also serves as a pro-bono basketball coach to the Charter School’s Middle School students. The Charter School has participated in a city wide charter school league for the past 4 years and won the Bronx Championship during the 2020-2021 academic year.

Conflict of Interest Policy

Pursuant to the terms of the Charter, the Board requires that each trustee, who has served on the Board during an academic year, file a Disclosure of Financial Interest by a Non-for-Profit Charter School Education Corporation Trustee Report (the “Disclosure Report”) with SUNY CSI. The Disclosure Report must set forth and attest to transactions between the Charter School and a trustee and any entity with which such trustee is affiliated, as such transactions may be defined by SUNY CSI.

The Charter School’s Code of Ethics requires any trustee, officer, or key employee having an interest in a contract, transaction or program presented to or discussed by the Board shall make a prompt, full and frank disclosure of his or her interest prior to any Board Action. The Code of Ethics prohibits the Charter School from engaging in any self-dealing transaction with such term defined to mean a transaction to which the Charter School is a party and where one of more trustees has a material financial interest. Additionally, under no circumstance will an employee of the Charter School initiate, participate, or benefit in any way from negotiating a contract or purchase of goods and services in which he/she, relative, or associate, has a financial interest. If an actual or potential conflict of interest is discovered, the employee must immediately withdraw from further participation in the involved transaction and report the transaction to the Principal and Executive Director. The Code of Ethics also prohibits any trustee, employees or officer from engaging in any conflict of interests, except as approved by the Board. Board trustees are ultimately responsible for setting the standards and rule relating to business conduct and as such endeavor at all times to avoid engaging in activities that would appear to be unduly influenced by anyone who has an interest in certain matters under consideration by the Board.

Committees of the Board of Trustees

The Charter School’s bylaws state that the Board, by resolution or resolutions adopted by a majority of the entire Board, may create a committee of the Board for any purpose, and the Board shall appoint members to and designate the chairs of such committees. A committee of the Board will consist of not fewer than three Trustees, who shall serve at the pleasure of the Board, except that any executive committee of the Board, if appointed, shall comprise not fewer than five Trustees. Current active committees include the following:

- Finance: The Finance Committee is responsible for selecting an audit firm on an annual basis, reviewing the Policies and Procedures manual on an annual basis, and review the monthly financial statements.
- Education: This committee supports the Executive Director/ Principal in developing and evaluating the Charter School’s educational program.
- Real Estate: This committee supports the Executive Director/Principal in helping obtain a long term facility for the Charter School.

Fiscal Policies and Operational Procedures of the Charter School

The Charter School is committed to developing and maintaining financial policies and operational procedures that ensure sound internal controls, fiscal responsibility, transparency and accountability in accordance with the generally accepted accounting principles (“GAAP”) practiced in the United States, the rules and regulations established by the Financial Accounting Standards Board (“FASB”), and standard operational procedures for charter schools. The Charter School will follow all the relevant laws and regulations that govern charter schools within the City and State of New York. As a nonprofit organization, the Charter School is entrusted with funds granted by the Federal, State and City government agencies, corporate, philanthropic foundations and individual contributors.

The Charter School maintains fiscal soundness through conservative budgeting practices and routine monitoring of audits and expenses pursuant to its varied fiscal policies. To confirm that management reports accurately reflect the Charter School’s finances, all financial activity must be forward to the Charter School’s Executive Director and Board Finance Committee. The Charter School’s Executive Director and Board Finance Committee collectively review the all financial reports and provide feedback and substantiation to correct any misallocation for misclassification of items, evaluates levels of spending vs. current budget to estimate future expenditures or request budget amendments, evaluates the necessity of each expenditure and implement procedures to correct for any inappropriate or unnecessary expenditure and provides feedback for designing the next year’s budget usual actual expenditures as guidelines. Every year the Charter School must go through an independent 3rd party audit. The Charter School has not had a management concern or received a qualified opinion in the past 7 years.

Fiscal Year and Budgeting: The fiscal year of the Charter School is from July 1st to June 30th. The Executive Director is responsible for creating and updating 5-year budget projections for the Charter School’s annual operating budget of income and expenses. The operating budget and the 5-year projection are reviewed and approved annually, first by the Executive Director, and then by the Finance Committee and finally by the Charter School’s Board and modified as necessary.

Accounting System: The Charter School has implemented an accounting system consisting of processes and documentation used to identify, compile, classify, record and report accounting transactions. These processes were established to: (1) identify and record all of the organization’s fiscal transactions; (2) describe the transactions adequately in order to allow proper classification for financial reporting, and (3) specify the time period in which transactions occurred in order to record them in the proper accounting period. Records will be maintained for the periods sufficient to satisfy Internal Revenue Service (“IRS”) regulations, federal grant requirements, Office of Management and Budget A-133 Compliance Statement audit requirements, if applicable, and other legal needs as may be determined. The Charter School’s financial statements are audited annually by an independent audit firm selected by the Board on the recommendation of the Finance Committee.

Cash Management: The Charter School maintains a checking account, escrow account and savings account to earn interest. In all instances, the Charter School utilizes its accounts in a way that safely maximizes its overall interest income. Monthly bank account reconciliations are processed using the Quickbooks Bank Reconciliation module. Any irregularities shall immediately be reported to the Executive Director and Director of Finance and Operations.

Financial Management

The Borrower outsources its accounting and financial management services to Victory Schools Inc., d/b/a BoostED Finance, New York, NY. BoostED currently provides financial management services to approximately 20 schools in New York State. BoostED provides comprehensive financial management services for the Borrower, including without limitation, financial budgeting and planning, financial reporting, financial statement presentation and audit coordination.

BoostED also provides the following accounting, financial and operational advisory services to the Borrower, including but not limited to:

(a) training and supporting Borrower’s leadership, operations and finance team members, as needed, to ensure compliance with the Borrower’s financial policies and procedures;

(b) reviewing the Borrower's current financial controls, policies and procedures and providing recommendations to improve of such controls, policies and procedures;

(c) preparing and submitting a proposed annual budget to the Board for the fiscal year;

(d) providing standard bookkeeping and accounting services, including preparation of ledgers of accounts receivable and payable and financial statements including balance sheet, all in accordance with Generally Accepted Accounting Principles ("GAAP"); and

(e) preparing all other financial reports and financial statements as may be required by the Charter School's Charter and Applicable Law, including reporting to the Board, SUNY CSI, and to the Department of Education.

Administration and Faculty

Listed below are members of the Charter School's key administrators, along with a brief description of the responsibilities of their respective positions and biographical information pertaining to each.

Norma Figueroa Hurwitz – Co-Founder/Executive Director

Norma Figueroa-Hurwitz is co-founder and Executive Director of the Charter School. Ms. Figueroa-Hurwitz has dedicated her life in the service of educating children, starting her career as an elementary school teacher with the New York City Department of Education ("NYCDOE") in 1969. She was then promoted as the Early Childhood coordinator for five elementary schools in NYC Community School District #4. In 1973, Ms. Figueroa-Hurwitz founded the first federally funded Emergency School Aid Act elementary magnet school, ("Elementary Magnet School PS 83") in Community School District #4 in East Harlem NY, serving as the Executive Director from 1973-1980. She was promoted to the elementary public school principal post at, PS 830M, serving from 1980-2003. PS 830M became the highest performing public elementary school in District #4 with 73% of the students performing at the highest levels in the NYS English Language Arts assessment and 81% in Mathematics.

Committed to continued education and learning, Ms. Figueroa-Hurwitz became part of the first group of Principals admitted to the Cahn Fellows program, a two year program for leaders at Columbia University. In 2003 her school was cited as one of the highest performing schools in NYC and she received a full scholarship for a Doctoral degree which she obtained from St. John's University in 2001.

In her current role as Executive Director, Ms. Figueroa-Hurwitz works closely with the Charter School principal to implement the mission and vision of the school, create an annual plan and long term needs and goals, provide leadership training for the principal, work with the Board's Development Committee to raise funds for the Charter School. Ms. Figueroa-Hurwitz obtained a degree in Psychology and English from City College of New York in 1968 and a Master's in Educational leadership in 1975 and a doctorate from St. John's University in 2001.

Leena Varghese - Principal

Ms. Leena Varghese was a founding teacher at the Charter School and has been the Charter School's Principal beginning in August 2012. Ms. Varghese holds a Bachelor's Degree from Hunter College in Childhood Education and English Language Arts and a Masters Degree from Hunter College in Literacy Education. Ms. Varghese was raised in the Bronx, New York and has attended New York City public schools. As Principal, Ms. Varghese is committed to high quality education for all children. She strongly believes in the mission of the Charter School and ensures the entire school community works together to provide resources, development and support to all students. Ms. Varghese serves as instructional leader and oversees curriculum development and assessments for all grades. Ms. Varghese also plays a vital role in managing the budget, finances and vendors. Ms. Varghese serves as a liaison with the Board and supports and cultivates community relationships.

Edward Kubina – Teacher Leader

Mr. Kubina has been a member of the Charter School community since its second year of opening and has taught various grades at the Charter School. Since 2017, Mr. Kubina has served as the Instructional Lead at the Middle

school. As the Instructional Lead, Mr. Kubina is responsible for developing the professional development for our Middle School teachers and oversees the day to day functions of the Middle School. Mr. Kubina holds a Bachelor's degree in Marketing from Baruch College, an English Language Arts and a Master's Degree in Childhood Education from Queens College.

Employees and Labor Relations

The Charter School currently employs 22 full-time lead classroom teachers, 11 co/associate/specials teachers, 1 part-time teacher and 6 administrative staff members. Co-teachers and teachers assistants contribute to students learning and support lead teachers in the classroom. The Charter School retained approximately 90% of its staff from 2019-20 academic year to the 2020-21 academic year. The Charter School's target class size is 28 students.

All of the Charter School's teachers, support staff and additional employees are employees of and are compensated by the Charter School. Teachers are employed pursuant to annual employment contracts. The Charter School believes that the faculty, administration and the Board have a strong and collaborative working relationship. The Charter School monitors its teachers and makes determinations about their ongoing status with the Charter School. The Charter School considers relations with the teachers to be excellent.

None of the employees are represented by any collective bargaining unit and there has been to date no efforts to unionize. Full-time employees currently receive medical, vision, dental (with shared premiums), life insurance, and accidental disability and dismemberment, as well as short-term and long-term disability insurance coverages at no cost. Eligible Charter School employees have the option of enrolling in the Charter School's 401(k) profit sharing plan.

Retirement Plan

The Charter School offers a 401(k) plan for all full-time employees after 90 days. Participation in the plan is voluntary. Employees can make pretax contributions. Up to a maximum of 100% of their annual compensation, up to IRS limits for each calendar year. The School matches 100% of an employee's contribution up to 5% of the employee's annual compensation. For the years ended June 30, 2020 and 2019, the School's matching contribution were \$59,100 and \$74,223 respectively. Such plan assets are held in a separate trust and are not included in the accompanying financial statements. All plan assets are held for the exclusive benefit of the Plan's participants and beneficiaries.

COVID19 – Response and Preparedness

In response to the novel coronavirus ("COVID-19"), the Charter School implemented a reopening plan that aligns with the requirements of New York City's Department of Health ("DOH") rules and requirements. The Charter School sent out two re-opening surveys to parents/guardians for input and provided staff members with NYSED's re-opening guidance and encouraged feedback. In addition, the Charter School administrators met with teachers who are part of the school leadership team to review the draft of the plan and make adjustments as need. The Board was also sent the plan and given the opportunity to provide feedback. All policies and protocols have been communicated with families through emails, phone calls and Charter School signage. Phone and text blasts will also be sent out when appropriate. The Charter School's Elementary and Middle Schools have remained open since the beginning of the COVID-19 pandemic for both in-person instruction, subject to state social distancing requirements and full time remote instruction. Charter School enrollment for both students and staff members has not decreased as a result of the COVID-19 pandemic. Due to circumstances related to the COVID-19 pandemic, students are on average performing at lower academic levels as compared to in-person instruction prior to the COVID-19 pandemic, however, such differences are not substantial. In addition, any extracurricular activities including the Boys and Girls Basketball team, the art club and the drama club are currently suspended due to the COVID-19 pandemic. The Charter School reopening plan is also posted on the Charter School website. The reopening plan is broken down into three distinct categories: People, Places and Categories.

People - The Charter School requires all individuals (students, parents, faculty, visitors and staff) to maintain six feet of distance at all times. Classroom furniture has been arranged to ensure distance is maintained and appropriate signs will be posted throughout the building to remind students and parents of proper hygiene practices. Anytime or place that individuals cannot maintain appropriate social distancing, individuals must wear acceptable face coverings. All students and staff members are required to wash their hands or use hand sanitizer prior to consuming meals and

prior to meal periods. The Charter School plans to utilize the school cafeteria for meals with social distancing protocols in place, in conjunction with the gymnasium and classrooms. Staff meetings will be held in smaller groups with some staff members participating from other rooms remotely, per the Center for Disease Control's "Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)". When video conferencing or teleconferencing is not preferable or possible, necessary parties may choose to hold in open well-ventilated spaces and ensure that individuals maintain appropriate social distance. Windows at the Charter School will be kept open in all hallways, large gathering spaces, and classrooms.

In Person Learning - Students who have opted for remote instruction only will receive remote instruction every day, Monday-Friday. In order to ensure we are able to adhere to social distancing requirements, students will be broken into different cohorts and attending school on alternating days of the week. All students who have opted for in-person learning will be broken into two groups, Group A and Group B. Students will attend school every other day, on the same days each week in addition to alternating Mondays. Based on staff and parent feedback, the schedule may be adjusted to have Group A attend for two consecutive days and Group B for two consecutive days with alternating Mondays. This gives all students the opportunity to attend in person instruction 2-3 days each week. When students are not receiving in-person instruction, they will be participating in remote learning. Students will remain in the same class with all of their materials for the entire day (with the exception of lunch/specials periods). Parents will drop their students off through the designated drop off entrance each morning. If parents are waiting for the school to check their child in, six feet distance must be maintained. Parents will meet children in a designated area and classes will only come down one class at a time. During this time, teachers may not engage in conversations or updates with parents.

Remote Learning - The Charter School provides laptops free of charge to approximately 60% of students who do not have access to computers. The Charter School also supplies wireless hot spots to approximately 5% of students who do not have internet access and have been unable to participate in the Charter School's remote instruction. Should a student's laptop break or no longer function, the Charter School will replace the student's laptop. Because the Charter School purchased laptops for remote students and personal protective equipment ("PPE") for students who receive in-person instruction, expenditures included in the Charter School budget increased. Despite this increase in expenditures, the Charter School was not required to apply for a Paycheck Protection Program ("PPP") loan from the U.S. Small Business Administration which were available to small businesses who require additional financial assistance during the COVID-19 crisis.

Places - Per Department of Health Guidelines, "Acceptable face coverings for COVID-19 include but are not limited to cloth-based face coverings (e.g., homemade sewn, quick cut, bandana), and surgical masks that cover both the mouth and nose. Face shields worn without other face coverings are not considered adequate protection or source control against COVID-19 and should not be used." All individuals must wear face coverings throughout the day, particularly in common areas. Students will be required to bring their own face coverings. The Charter School will have extra face coverings available for individuals for emergency use. All individuals will be required to wear facemasks outside and inside the building. This includes during morning arrival and dismissal. Facemasks must be worn when walking in the halls and in all common areas. When students are in the classroom, they will be 6 feet apart and will not be required to wear facemasks the entire time. Teachers should keep their facemasks on as much as possible as they will be traveling throughout the room. However, teachers must always maintain 6 feet distance from all children. Parents/guardians will be responsible for sending children to school with a proper face covering and ensuring reusable face coverings and properly cleaned.

Processes - The Charter School will perform daily temperature checks for all staff and adults who enter the building, upon entry. Any individual with a temperature greater than 100.0°F will not be allowed to enter the building. Students must come to school daily with written assurance from parents that temperature checks were completed at home. Staff members and students must complete the following assurances prior to entry each morning, per DOH guidelines. Screening for all students, faculty, staff, and, where practicable, visitors, contractors, and vendors, must be completed using a questionnaire that determines whether the individual has: (a) knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive through a diagnostic test for COVID-19 or who has or had symptoms of COVID-19; (b) tested positive through a diagnostic test for COVID-19 in the past 14 days; (c) has experienced any symptoms of COVID-19, including a temperature of greater than 100.0°F, in the past 14 days; and/or (d) has traveled internationally or from a state with widespread community transmission of COVID-19 per the New York State Travel Advisory in the past 14 days. If COVID-19 cases are discovered at the Charter School, individuals will be traced and all parties will be notified of such findings, including the Department of Health.

In the event that numerous cases are reported school wide or city wide, the Charter School will close and move to remote learning only until it is safe to return.

Social Emotional Well Being – Charter School teachers and staff members will be trained to look out for signs of mental distress and will ensure that each school day begins with students being allowed to express their thoughts and feelings. The Charter School will support students emotionally through various learning opportunities where they get to engage with their peers and teachers in a meaningful way. Students who already receive counseling will continue to receive services in-person and via tele therapy. If the Charter School identifies additional students who need support, then first step will be to engage in conversations with the family. The Charter School will then refer them to local city agencies, such as the FRIENDS program through the Visiting Nurse Service with whom the Charter School has established a relationship.

Enrollment

Enrollment in the Charter School is open to any child who is qualified under the laws of New York for admission to a public school in compliance with State law, which provides that admission of students cannot be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry. The Charter School must demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficient students when compared to the enrollment figures for such students in the school district in which the charter school is located. According to the Department of Education, at least 95% of all students enrolled in the Charter School are defined as economically disadvantaged and 93% of all students are eligible for free or reduced cost lunch. At least 50% of students enrolled in the Charter School are Black or African American, 47% are Hispanic or Latino, 1% American Indian or Alaska Native, 1% White and 1% Multiracial pursuant to data submitted to the Department of Education from the Charter School as of 2019.

The following Table B-2 sets forth data provided by the Charter School regarding its historical and projected enrollment. Information through 2020-21 is actual data as of January 2021.

| TABLE B-2: HISTORICAL AND FUTURE PROJECTED ENROLLMENT BY GRADE LEVEL | | | | | | | | | | | |
|---|--------------|----------------|----------------|----------------|----------------|------------------|----------------|--------------------------|----------------|----------------|----------------|
| Historical | | | | | | Projected | | | | | |
| Location | Grade | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 | 2022-23 | Location | 2023-24 | 2024-25 | 2025-26 |
| Elementary School | K | 55 | 88 | 50 | 50 | 56 | 56 | Elementary School | 84 | 84 | 84 |
| | 1 | 50 | 76 | 125 | 84 | 56 | 56 | | 112 | 112 | 112 |
| | 2 | 51 | 55 | 75 | 112 | 84 | 56 | | 112 | 112 | 112 |
| | 3 | 55 | 57 | 50 | 84 | 112 | 84 | New Facility | 84 | 112 | 112 |
| | 4 | 47 | 55 | 50 | 56 | 84 | 112 | | 84 | 112 | 112 |
| Middle School | 5 | 58 | 49 | 75 | 56 | 56 | 84 | Middle School | 112 | 84 | 112 |
| | 6 | 49 | 53 | 75 | 65 | 56 | 56 | | 112 | 112 | 112 |
| | 7 | 49 | 40 | 75 | 56 | 56 | 56 | | 84 | 112 | 112 |
| | 8 | 83 | 39 | 50 | 50 | 56 | 56 | | 56 | 84 | 112 |
| Totals | | 497 | 512 | 625 | 613** | 616 | 616 | Totals | 840 | 924 | 980 |

*Source: the Charter School.

** Enrollment decreased in the 2020-21 academic year due to families relocating due to the COVID-19 crisis.

Application Process/Lottery/Waitlist

The Charter School conducts an open application process that begins in January every year for incoming students. The Charter School attracts new applicants from an annual lottery until all available vacancies are filled. To increase lottery efficiency the Charter School contracts with an electronic lottery company and hosts “Lottery Day,” a public event, for parents and guardians to formally apply for admission to the Charter School. The lottery is dissolved at the end of each academic year and a new wait list is promulgated for the next academic year. To attract an increased number of ELL students, the Charter School added an ELL preference to its 2019-20 lottery. The Charter School

intends to add children of current Charter School employees to its lottery preference for the 2021-22 lottery following approval from SUNY CSI.

Presently, priority lottery preference is first given to siblings of students currently enrolled at the Charter School; ELL residents of the District, non-ELL students who live in the District; and finally those who do not live in the District and who are entitled to free or reduced cost lunch. The working definition of “at risk” for purposes of the lottery mean students who are entering Kindergarten and grade 1 from families that are eligible for free and reduced lunch. Approximately 93% of Charter School students receive free or reduced cost lunch.

Recruitment efforts for the 2021-22 lottery focused on the local community, which has a high percentage of students who are eligible for free or reduced cost lunch. The Charter School has made and will continue to make efforts to retain a greater number of students with disabilities. The Charter School is committed to helping realize the vision and goals of the, Individuals with Disabilities Education Act (“IDEA”). The academic program available at the Charter School is available to eligible students and families and is accountable for identifying, servicing, evaluating and educating to its highest potential, students with disabilities and ELL students.

The Charter School recruitment plan includes mailings to local residents in the District, distributing applications and informational pamphlets in local newspapers, cafes, supermarkets and other community based organizations including but not limited to the Head Start Program, local clinics and posting on the Charter School’s website. To ensure an equal opportunity for all applicants, informational material related to the Charter School lottery and application process is posted in both English and Spanish. The Charter School will also make a reasonable effort to accommodate any other home language of the student, at local organizations, or in mailings as requested by parents. The Charter School also provides presentations and marketing materials to local day care centers, libraries and community organizations, including the Salvation Army. The Charter School also partners with Beekman Houses, a real estate company, that owns several residential buildings within a 1.0 mile radius of the Elementary and Middle School. Through this partnership, Beekman Houses provides marketing materials to current residents describing the Charter School programs. Additionally, the Charter School advertises its academic programs on social media platforms, in local newspapers and in local bus stops. The Charter School is undertaking the construction of the New Facility to meet existing demand for new students as indicated in the table below. Given the physical limitations of the Existing Facilities, the Charter School’s maximum physical enrollment cannot exceed 625 students until the New Facility is placed in service.

The following Table B-3 listed below reflects the Charter School application summary for the 2020-21 academic year:

| TABLE B-3: ADMISSIONS APPLICATION AND WAIT LIST SUMMARY | | | | |
|--|--|------------------------------------|---|---|
| Grade | Approved Charter Enrollment for 2020-21 | Available Seats for 2020-21 | Number of Timely New Applications Received | Total Number of Students on Waiting List |
| Kindergarten | 75 | 75 | 257 | 139 |
| 1 | 75 | 35 | 135 | 82 |
| 2 | 100 | 21 | 120 | 82 |
| 3 | 75 | 15 | 137 | 115 |
| 4 | 50 | 7 | 172 | 158 |
| 5 | 50 | 9 | 192 | 158 |
| 6 | 50 | 9 | 275 | 175 |
| 7 | 75 | 0 | 86 | 82 |
| 8 | 50 | 0 | - | - |
| Totals | 600 | 171 | 1,374 | 991 |

*Source: the Charter School

Note: The Charter School can enroll approximately 20% above its stated Charter limit.

Student Retention

The following Table B-4 shows the number of Charter School students who were enrolled in Kindergarten through 7th grade at the end of 2018-19 academic year who returned at the beginning of the 2019-20 academic year and

the number of students who were enrolled in Kindergarten through 7th grade at the end of the 2019-20 academic year who returned at the beginning of the 2020-21 academic year.

| TABLE B-4: STUDENT RETENTION DATA | | |
|--|--|-------------------------|
| Enrollment at the End of 2018-19 | Re-Enrolled at the Beginning of 2019-20 | Retention Rate % |
| 556 | 495 | 89% |
| Enrollment at the End of 2019-20 | Re-Enrolled at the Beginning of 2020-21 | Retention Rate % |
| 545 | 485 | 89% |

* Source: the Charter School

The Charter School has worked diligently to retain all students particularly English Language Learners (“ELL”) and those in need of special education services. Presently, approximately 9-11% of all Charter School students receive special education services (“SPED”). In addition, 10-13% of current Charter School students are ELL students. The Charter School has a part time Speech Pathologist, Occupational Therapist, and Counselor. Having these services available in-house has contributed to parent satisfaction and helped retain students. To meet this goal, the Charter School has developed a strong relationship with the local Committee on Special Education Office to support the needs of students.

Service Area and Competing Schools

For the 2020-21 academic year, approximately 90% of the Charter School’s students resided within the District in close proximity to the Charter School. For the 2020-21 academic year, there were approximately 31 charter schools in the District. The Charter School is one of approximately 15 SUNY CSI authorized charter schools in the District. For the 2018-19 academic year, there were approximately 48 traditional public schools serving an estimated 17,049 students in the District. The Charter School believes that it competes for students with schools that neighbor its existing campuses and, to a lesser degree, with other schools in the District.

The following Table B-5 provides a summary of the competitive charter schools that are within a three-mile radius of the Charter School.

| TABLE B-5: COMPETING SCHOOLS POPULATION | | | | |
|--|----------------------|-------------------|---|--|
| School Name | Grades Served | Enrollment | Distance (miles from the Charter School) | 2018-19 Overall Accountability Rating |
| The Charter School | K-8 | 613** | 0 | Good Standing |
| Success Academy Bronx 1 | K-4 | 588 | 1.0 | Good Standing |
| South Bronx Classical Charter School II | K-6 | 354 | 1.2 | Good Standing |
| University Prep Middle School | 5-8 | 308 | 0.6 | N/A |
| Brilla College Prep | K-6 | 572 | 0.6 | Good Standing |
| Bronx Charter School for Children | K-5 | 418 | 0.6 | Good Standing |

* Enrollment as of January 2021.

Source: the Charter School and data available from the Department of Education.

The Charter School faces constant competition for students and there can be no assurance that it will continue to attract and retain the number of students that are needed to generate revenues in an amount necessary to pay debt service on the Series 2021 Bonds. See “RISK FACTORS – Competition for Students.”

Adequate Yearly Progress Status

In the past, each state assessed whether such state's public schools had met Adequate Yearly Progress (“AYP”) measurements mandated by the federal government but developed by such state. However, during July 2012,

the Obama administration announced that it would waive certain provisions of the federal No Child Left behind Act of 2001 (the "NCLB"). As part of the waiver, certain states, including New York, were permitted to substitute their own accountability system in place of AYP.

In December 2015, former President Obama signed into law the Every Student Succeeds Act of 2015 (the "ESSA"), largely replacing the NCLB. The ESSA grants states more flexibility to comply with federal mandates, eliminating the needs for continuing federal waivers, and specifically allowing states to develop, implement and time student assessments. The ESSA also allows states to develop its own educational standards, which may or may not include adoption of the Common Core standards. Accountability criteria are now developed by states within broadly-defined federal criteria. Under the NCLB the remedies for failing schools were specific and difficult. Under the ESSA, failing schools must be corrected, but the remedies are left to the states and are broadly defined. In summary, the ESSA has largely replaced the NCLB, granting states more local control of education and allowing the states to determine accountability and compliance.

Materials published by the New York State Education Department, School Accountability Status, indicate the Charter School has been "in good standing" in each of the years in which it was subject to evaluation. In New York, a school that receives Title I funds is considered to be in good standing if it has not been identified as a School in Need Improvement, in Corrective Action, Planning for Restructuring or Restructuring. Schools in improvement status under Title I must provide school choice for their students. Those in need of improvement in year two and beyond must also provide Supplemental Education Services to eligible students.

Student Performance

Every six weeks students in Kindergarten through grade 8 are assessed in literacy and Mathematics and students from grade 1 through 8 are assessed in all academic areas; Literacy, Mathematics, Social Studies and Science. Based on these six-week assessments, teachers are able to provide differentiated lessons to meet the needs of each student. Each student is also closely monitored on their mastery levels in both English Language Arts and Mathematics charts which outline all comprehension skills and strategies and mathematics concepts.

The Charter School uses a two teacher model in many classrooms. The lead teacher and teacher associate provide small group instruction for each academic area which promotes meeting the needs of ELL and Special Education or differently abled students. The Charter School provides special education services in an inclusive setting that provides a learning environment that contributes to students' development.

The Office for Standards, Assessment and Reporting of the New York State Education Department is responsible for the coordination, development, and implementation of the grade 3-8 tests, Regents examinations, Regents competency tests, second language proficiency examinations, alternate assessments and English language proficiency assessments that comprise the New York State Testing Program ("NYSTP"). These examinations are administered to students in grades kindergarten through 12 enrolled in public, nonpublic, and charter schools throughout the State of New York.

Students in grades 3-8 are expected to take a series of state examinations. These exams include the New York State Assessments in:

- Grades 3-8 English Language Arts
- Grades 3-8 Mathematics
- Grade 4 Science
- Grade 8 Algebra 1 Regents (Instead of the 8th Grade Regular Mathematics Assessment)
- Grade 8 Living Environment Regents (Instead of the 8th Grade Regular Science Assessment)
- Student performance on the assessments is categorized into achievement levels: Level 1 - Not Meeting Learning Standards; Level 2 - Partially Meeting Learning Standards; Level 3 - Meeting Learning Standards; and Level 4 - Meeting Learning Standards with Distinction.

For the 2019-20 academic year, due to the school closures related to COVID-19, the Department of Education cancelled all elementary and intermediate-level state assessments, and Regents Exams. Tables B-6 below sets forth Comparative Assessment Results for relevant jurisdictions during the 2017-18 and 2018-19 School Years. These results are the most up-to-date available.

**Table B-6: COMPARATIVE ASSESSMENT RESULTS
(% PROFICIENT OR ADVANCED PROFICIENT)**

| Grade/Exam | 2017-18 School Year | | | | | 2018-19 School Year | | | | |
|--------------|---------------------|------------|---------------|--------------|----------------|---------------------|------------|---------------|--------------|----------------|
| | Charter School | District 7 | New York City | Bronx County | New York State | Charter School | District 7 | New York City | Bronx County | New York State |
| Grade 3 ELA | 92% | 38% | 51% | 37% | 51% | 84% | 43% | 53% | 40% | 52% |
| Grade 4 ELA | 69% | 33% | 49% | 34% | 47% | 72% | 36% | 50% | 36% | 48% |
| Grade 5 ELA | 72% | 20% | 38% | 24% | 37% | 70% | 22% | 40% | 27% | 38% |
| Grade 6 ELA | 72% | 27% | 49% | 35% | 49% | 91% | 28% | 48% | 33% | 47% |
| Grade 7 ELA | 49% | 20% | 43% | 28% | 40% | 95% | 22% | 43% | 27% | 40% |
| Grade 8 ELA | 84% | 31% | 51% | 37% | 48% | 95% | 31% | 51% | 27% | 48% |
| Grade/Exam | 2017-18 School Year | | | | | 2018-19 School Year | | | | |
| | Charter School | District 7 | New York City | Bronx County | New York State | Charter School | District 7 | New York City | Bronx County | New York State |
| Grade 3 Math | 88% | 39% | 52% | 36% | 54% | 82% | 35% | 53% | 37% | 50% |
| Grade 4 Math | 69% | 30% | 46% | 29% | 48% | 75% | 29% | 49% | 33% | 55% |
| Grade 5 Math | 67% | 23% | 42% | 26% | 44% | 71% | 27% | 46% | 30% | 46% |
| Grade 6 Math | 57% | 17% | 40% | 23% | 44% | 74% | 26% | 44% | 28% | 47% |
| Grade 7 Math | 62% | 15% | 40% | 23% | 41% | 78% | 21% | 42% | 25% | 44% |
| Grade 8 Math | 80% | 14% | 33% | 22% | 30% | 86% | 27% | 36% | 26% | 33% |

*Source: the Charter School, from data made available by the New York State Department of Education.

Other Assessments Used to Monitor Progress at the Charter School

In addition to teacher-prepared tests and mandated New York State Elementary and Middle School Assessments, students take a series of curriculum-based exams which include the New York State English as a Second Language Achievement Tests (“NYSESLAT”) administered in grades K through 12 to all English Language Learners (ELLs). ELLs are students who, by reason of foreign birth or ancestry, speak or understand a language other than English and speak or understand little or no English, and require support to become proficient in English. The Charter School administers assessments for ELA, Mathematics, Social Studies, and Science in each grade every six weeks. The Charter School develops the ELA and Mathematics exams based on previous state assessments, often using released test items. The Charter School also administers teacher-created assessments in Social Studies and Science based on the curricular units to measure students’ mastery of the standards.

Debt Summary

The Charter School has no outstanding long-term debt as of January 2021.

Future Plans

Except with respect to the issuance of the Series 2021 Bonds, the Charter School does not anticipate incurring any additional long-term indebtedness in the foreseeable future.

On March 27, 2020, Congress passed, and the President signed into law the CARES Act. Eligible Local Educational Agencies (“LEAs”) can apply to the New York State Education Department (NYSED) for Elementary

and Secondary School Emergency Relief Funds (ESSER) funds. The School received \$363,663 in one-time Cares Act funds.

The American Rescue Plan Act of 2021 will provide \$122.7 billion for PreK-12 education through the Elementary and Secondary School Emergency Relief (ESSER III) fund—including at least \$28 billion for afterschool and summer learning programs and other evidence-based strategies for addressing learning loss. Emergency relief dollars will go to State Education Agencies and LEAs for distribution to schools. For charter schools that operate as their own LEAs, funds will go directly to those schools. Based on the proportion of students enrolled in public charter schools, an estimated \$7 billion will be available to meet their needs.

Basic Tuition

New York charter schools such as the Charter School may not charge tuition and have no taxing authority. The principal source of charter school funding in New York is “Charter School Basic Tuition” that charter schools are paid by the school district of the residence of the students attending the charter schools, and the amount of aid received by an individual school is based on a variety of factors. Basic Tuition Rate for District 7 was \$15,308, \$16,150 and \$16,124 for 2018-19, 2019-20 and 2020-21, respectively.

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Projected Revenues and Expenditures

| (Years Ending June 30) | Actual 2019A | Actual 2020A | Budget 2021E | Budget 2022E | Budget 2023E | Budget 2024E | Budget 2025E |
|--|-------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| STUDENTS (at full capacity) | 525 | 575 | 612 | 616 | 616 | 840 | 924 |
| STUDENTS (budgeted enroll.) | 494 | 564 | 612 | 585 | 585 | 798 | 878 |
| REVENUES | | | | | | | |
| State Funding | 8,195,455 | 9,729,920 | 10,537,835 | 10,500,537 | 10,500,537 | 14,319,187 | 15,751,306 |
| Federal Funding | 589,386 | 524,912 | 550,758 | 520,602 | 520,602 | 702,254 | 770,374 |
| Grants/Contributions | - | - | - | - | - | - | - |
| Other Income | <u>385,940</u> | <u>417,572</u> | <u>200,000</u> | <u>100,000</u> | <u>100,000</u> | <u>100,000</u> | <u>100,000</u> |
| TOTAL REVENUES | <u>9,170,781</u> | <u>10,672,404</u> | <u>11,288,593</u> | <u>11,121,138</u> | <u>11,121,138</u> | <u>15,121,441</u> | <u>16,621,680</u> |
| EXPENSES | | | | | | | |
| Personnel | | | | | | | |
| Administrative Staff | 581,531 | 651,517 | 667,464 | 796,831 | 820,736 | 1,455,358 | 1,549,019 |
| Instructional Staff | 2,121,676 | 2,296,418 | 2,627,591 | 3,271,809 | 3,454,864 | 4,315,236 | 4,889,334 |
| Payroll Taxes | 220,024 | 220,881 | 279,493 | 284,153 | 299,879 | 378,139 | 427,615 |
| Employee Benefits | <u>495,583</u> | <u>451,425</u> | <u>614,500</u> | <u>789,791</u> | <u>864,197</u> | <u>1,214,881</u> | <u>1,412,295</u> |
| Subtotal Personnel | 3,418,814 | 3,620,241 | 4,189,048 | 5,142,584 | 5,439,676 | 7,363,614 | 8,278,262 |
| Non-Personnel | | | | | | | |
| Administrative Expenses | 143,452 | 106,262 | 200,800 | 211,674 | 217,724 | 347,256 | 357,674 |
| Insurance School-wide | 45,605 | 75,968 | 62,000 | 63,860 | 65,776 | 123,749 | 127,462 |
| Professional Services | 83,221 | 85,326 | 119,000 | 122,570 | 126,247 | 130,035 | 133,936 |
| Professional Development | 7,246 | 13,133 | 30,000 | 30,900 | 31,827 | 47,782 | 49,215 |
| Marketing/Recruiting | 302,803 | 123,054 | 122,000 | 125,660 | 189,430 | 195,113 | 200,966 |
| Curriculum & Classroom Expenses | 239,963 | 424,712 | 324,921 | 312,302 | 319,965 | 470,445 | 489,986 |
| Facilities | 9,357 | 8,669 | 18,000 | 18,540 | 19,096 | 379,669 | 391,059 |
| Technology Expenses | 37,205 | 58,314 | 82,000 | 84,460 | 86,994 | 177,604 | 182,932 |
| Depreciation | 64,584 | 82,237 | 96,600 | 160,600 | 160,600 | 291,552 | 291,552 |
| Misc. Expenses | 37 | - | 200 | 206 | 212 | 219 | 225 |
| Financing Expenses | <u>-</u> | <u>-</u> | <u>32,154</u> | <u>770,297</u> | <u>736,730</u> | <u>699,864</u> | <u>661,397</u> |
| Subtotal Non-Personnel | 933,473 | 977,675 | 1,087,674 | 1,901,068 | 1,954,602 | 2,863,286 | 2,886,403 |
| TOTAL EXPENSES | <u>4,352,287</u> | <u>4,597,916</u> | <u>5,276,722</u> | <u>7,043,653</u> | <u>7,394,277</u> | <u>10,226,900</u> | <u>11,164,665</u> |
| NET INCOME | <u>4,818,494</u> | <u>6,074,488</u> | <u>6,011,871</u> | <u>4,077,486</u> | <u>3,726,861</u> | <u>4,894,541</u> | <u>5,457,015</u> |
| Add Back: Interest Expense | 681,188 | - | 29,534 | 707,433 | 673,867 | 637,000 | 598,533 |
| Add Back: Depreciation | <u>993,491</u> | <u>82,237</u> | <u>99,219</u> | <u>223,464</u> | <u>223,464</u> | <u>354,415</u> | <u>354,415</u> |
| Net Income Available for Debt Service | <u>6,493,173</u> | <u>6,156,725</u> | <u>6,140,624</u> | <u>5,008,382</u> | <u>4,624,192</u> | <u>5,885,956</u> | <u>6,409,964</u> |
| DEBT SERVICE COVERAGE | | | | | | | |
| Series 2021 Bond Debt Service | | | | | | | |
| Interest | - | - | 29,534 | 707,433 | 673,867 | 637,000 | 598,533 |
| Principal | <u>-</u> | <u>-</u> | <u>-</u> | <u>885,000</u> | <u>920,000</u> | <u>960,000</u> | <u>1,000,000</u> |
| Net Debt Service | - | - | 29,534 | 1,592,433 | 1,593,867 | 1,597,000 | 1,598,533 |
| Debt Service Coverage | | | 207.91 | 3.15 | 2.90 | 3.69 | 4.01 |
| DAYS CASH ON HAND | | | | | | | |
| Beginning Cash | 19,558,878 | 23,963,978 | 28,080,166 | 14,101,256 | 17,327,205 | 20,167,530 | 24,196,487 |
| Cash Flow Adjustments | 4,405,100 | 4,115,094 | (13,978,910) | 3,225,949 | 2,840,325 | 4,028,956 | 4,621,431 |
| Ending Cash Balance | 23,963,978 | 28,079,072 | 14,100,162 | 17,326,111 | 20,166,436 | 24,195,392 | 28,816,823 |
| Total Operating Expenses | 3,358,796 | 4,515,679 | 5,177,503 | 6,820,189 | 7,170,813 | 9,872,484 | 10,810,249 |
| Days Cash on Hand | 2,604 | 2,270 | 994 | 927 | 1,026 | 895 | 973 |

- Per pupil revenues assume no increase from FY2021-22 through FY2024-25, and 1% for FY2025-26
- Salary and all other expenses generally assumed to increase 3% per year through the projection period
- DCOH calculations includes interest expenses as a part of operating expenses

NO GUARANTEE CAN BE MADE THAT THE PROJECTED INFORMATION CONTAINED HEREIN WILL CORRESPOND WITH THE RESULTS ACTUALLY ACHIEVED IN THE FUTURE BECAUSE THERE CAN BE NO ASSURANCE THAT ACTUAL EVENTS WILL CORRESPOND WITH THE ASSUMPTIONS UNDERLYING SUCH PROJECTIONS. ACTUAL OPERATING RESULTS MAY BE AFFECTED BY MANY FACTORS, INCLUDING, BUT NOT LIMITED TO, CHANGES IN THE STATE'S FUNDING SYSTEM, UNANTICIPATED INCREASES IN COSTS, LOWER THAN ANTICIPATED REVENUES (AS A RESULT OF INSUFFICIENT ENROLLMENT, DIFFICULTIES WITH THE CHARTER SCHOOL'S GROWTH PLANS,

REDUCED AID PAYMENTS, OR OTHERWISE), EMPLOYEE RELATIONS, CHANGES IN TAXES, CHANGES IN APPLICABLE GOVERNMENTAL REGULATION, CHANGES IN DEMOGRAPHIC TRENDS, CHANGES IN EDUCATION COMPETITION AND LOCAL OR GENERAL ECONOMIC CONDITIONS.

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APPENDIX C

**AUDITED FINANCIAL STATEMENTS OF THE SCHOOL
FOR THE FISCAL YEAR ENDED JUNE 30, 2020 (INCLUDING
JUNE 30, 2019 COMPARATIVE INFORMATION)**

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ACADEMIC LEADERSHIP CHARTER SCHOOL

Financial Statements

For the years ended June 30, 2020 and 2019

ACADEMIC LEADERSHIP CHARTER SCHOOL
Financial Statements
June 30, 2020 and 2019

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Independent Auditors' Report

To the Board of Trustees of
Academic Leadership Charter School

Report on the financial statements

We have audited the accompanying financial statements of Academic Leadership Charter School, which comprise the statements of financial position as of June 30, 2020 and 2019, and the related statements of activities, functional expenses and cash flows for the years then ended, and the related notes to the financial statements.

Management's responsibility for the financial statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America, this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Academic Leadership Charter School as of June 30, 2020 and 2019, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other reporting required by government auditing standards

In accordance with *Government Auditing Standards*, we have also issued our report dated October 28, 2020 on our consideration of Academic Leadership Charter School internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering Academic Leadership Charter School's internal control over financial reporting and compliance.

NChing LLP

New York, New York
October 28, 2020

ACADEMIC LEADERSHIP CHARTER SCHOOL**Statements of Financial Position**

As of June 30,

| | <u>2020</u> | <u>2019</u> |
|--|-----------------------------|-----------------------------|
| <u>Assets</u> | | |
| Current assets | | |
| Cash and cash equivalents | \$ 28,080,162 | \$ 23,964,961 |
| Grants receivable | <u>632,390</u> | <u>439,926</u> |
| Total current assets | 28,712,552 | 24,404,887 |
| Property and equipment, net - Note 5 | 5,846,567 | 4,094,686 |
| Other assets | | |
| Reserve contingency | <u>78,076</u> | <u>77,183</u> |
| Total Assets | <u><u>\$ 34,637,195</u></u> | <u><u>\$ 28,576,756</u></u> |
| <u>Liabilities and Net Assets</u> | | |
| Current liabilities | | |
| Accounts payable and accrued expenses | \$ 317,087 | \$ 395,120 |
| Accrued salaries and other payroll-related expenses - Note 7 | 389,622 | 323,663 |
| Refundable advances | <u>-</u> | <u>1,975</u> |
| Total current liabilities | <u>706,709</u> | <u>720,758</u> |
| Net assets without donor restrictions | | |
| Undesignated | 33,852,410 | 27,778,815 |
| Reserve - contingency | <u>78,076</u> | <u>77,183</u> |
| Total net assets without donor restrictions | <u><u>33,930,486</u></u> | <u><u>27,855,998</u></u> |
| Total liabilities and net assets without donor restrictions | <u><u>\$ 34,637,195</u></u> | <u><u>\$ 28,576,756</u></u> |

The accompanying notes are an integral part of these financial statements.

ACADEMIC LEADERSHIP CHARTER SCHOOL
Statements of Activities
For the years ended June 30,

| | <u>2020</u> | <u>2019</u> |
|---|-----------------------------|-----------------------------|
| <u>Operating revenue and other support</u> | | |
| State and local per pupil operating revenue | | |
| General education | \$ 9,102,721 | \$ 7,616,230 |
| Special education | <u>461,095</u> | <u>301,950</u> |
| Total state and local per pupil operating revenue | <u>9,563,816</u> | <u>7,918,180</u> |
| Grants, contracts and other support | | |
| Federal grants | 524,912 | 589,386 |
| State and local grants | 166,104 | 277,275 |
| Interest and other income | <u>417,572</u> | <u>385,940</u> |
| Total grants, contracts and other support | <u>1,108,588</u> | <u>1,252,601</u> |
| Total operating revenue and other support | <u>10,672,404</u> | <u>9,170,781</u> |
| <u>Expenses</u> | | |
| Program expenses | | |
| Regular education | 3,894,601 | 3,787,518 |
| Special education | <u>178,981</u> | <u>133,364</u> |
| Total program expenses | <u>4,073,582</u> | <u>3,920,882</u> |
| Supporting services | | |
| Management and general | <u>524,334</u> | <u>431,404</u> |
| Total program and supporting services expenses | <u>4,597,916</u> | <u>4,352,286</u> |
| Change in net assets | 6,074,488 | 4,818,495 |
| Net assets without restrictions - beginning of year | <u>27,855,998</u> | <u>23,037,503</u> |
| Net assets without restrictions - end of year | <u><u>\$ 33,930,486</u></u> | <u><u>\$ 27,855,998</u></u> |

The accompanying notes are an integral part of these financial statements.

ACADEMIC LEADERSHIP CHARTER SCHOOL**Statement of Functional Expenses**

For the year ended June 30, 2020

| | Program expenses | | | Supporting services | Total Program and Supporting services |
|-----------------------------------|---------------------|-------------------|---------------------|------------------------|---------------------------------------|
| | Regular education | Special education | Total programs | Management and general | |
| Salaries | | | | | |
| Instructional personnel | \$ 2,525,119 | \$ 112,276 | \$ 2,637,395 | \$ 85,245 | \$ 2,722,640 |
| Administrative staff personnel | - | - | - | 225,295 | 225,295 |
| Total salaries | <u>2,525,119</u> | <u>112,276</u> | <u>2,637,395</u> | <u>310,540</u> | <u>2,947,935</u> |
| Operating expenses | | | | | |
| Payroll taxes and fringe benefits | 575,877 | 25,606 | 601,483 | 70,821 | 672,304 |
| Professional and consulting | - | - | - | 85,435 | 85,435 |
| Staff development | 10,682 | 662 | 11,344 | - | 11,344 |
| Textbooks and curriculum | 319,260 | 19,821 | 339,081 | - | 339,081 |
| Communication and technology | 50,468 | 2,244 | 52,712 | 6,207 | 58,919 |
| Equipment rental and lease | 50,857 | 2,261 | 53,118 | 6,255 | 59,373 |
| Student and staff recruiting | 105,405 | 4,687 | 110,092 | 12,963 | 123,055 |
| Supplies and materials | 79,099 | 3,517 | 82,616 | 9,727 | 92,343 |
| Repairs and maintenance | 7,594 | 338 | 7,932 | 934 | 8,866 |
| Administrative | 34,726 | 1,544 | 36,270 | 4,786 | 41,056 |
| Insurance | 65,072 | 2,893 | 67,965 | 8,003 | 75,968 |
| Depreciation | 70,442 | 3,132 | 73,574 | 8,663 | 82,237 |
| Total operating expenses | <u>1,369,482</u> | <u>66,705</u> | <u>1,436,187</u> | <u>213,794</u> | <u>1,649,981</u> |
| Total expenses | <u>\$ 3,894,601</u> | <u>\$ 178,981</u> | <u>\$ 4,073,582</u> | <u>\$ 524,334</u> | <u>\$ 4,597,916</u> |

The accompanying notes are an integral part of these financial statements.

ACADEMIC LEADERSHIP CHARTER SCHOOL**Statement of Functional Expenses**

For the year ended June 30, 2019

| | Program expenses | | | Supporting services | Total Program and Supporting services |
|-----------------------------------|-------------------|-------------------|----------------|------------------------|---------------------------------------|
| | Regular education | Special education | Total programs | Management and general | |
| Salaries | | | | | |
| Instructional personnel | \$ 2,387,518 | \$ 83,226 | \$ 2,470,744 | \$ 87,267 | \$ 2,558,011 |
| Administrative staff personnel | - | - | - | 145,196 | 145,196 |
| Total salaries | 2,387,518 | 83,226 | 2,470,744 | 232,463 | 2,703,207 |
| Operating expenses | | | | | |
| Payroll taxes and fringe benefits | 631,880 | 22,184 | 654,064 | 61,542 | 715,606 |
| Professional and consulting | - | - | - | 83,722 | 83,722 |
| Staff development | 6,499 | 258 | 6,757 | - | 6,757 |
| Textbooks and curriculum | 201,536 | 7,983 | 209,519 | - | 209,519 |
| Communication and technology | 43,026 | 1,510 | 44,536 | 4,191 | 48,727 |
| Equipment rental and lease | 61,183 | 2,147 | 63,330 | 5,959 | 69,289 |
| Student and staff recruiting | 267,375 | 9,387 | 276,762 | 26,041 | 302,803 |
| Transportation | 10,629 | 421 | 11,050 | - | 11,050 |
| Supplies and materials | 33,002 | 1,159 | 34,161 | 3,214 | 37,375 |
| Repairs and maintenance | 8,263 | 289 | 8,552 | 805 | 9,357 |
| Administrative | 39,311 | 1,384 | 40,695 | 3,991 | 44,686 |
| Insurance | 40,269 | 1,414 | 41,683 | 3,922 | 45,605 |
| Depreciation | 57,027 | 2,002 | 59,029 | 5,554 | 64,583 |
| Total operating expenses | 1,400,000 | 50,138 | 1,450,138 | 198,941 | 1,649,079 |
| Total expenses | \$ 3,787,518 | \$ 133,364 | \$ 3,920,882 | \$ 431,404 | \$ 4,352,286 |

The accompanying notes are an integral part of these financial statements.

ACADEMIC LEADERSHIP CHARTER SCHOOL**Statements of Cash Flows**

For the years ended June 30,

| | <u>2020</u> | <u>2019</u> |
|---|-----------------------------|-----------------------------|
| Cash flows from operating activities | | |
| Change in net assets | \$ 6,074,488 | \$ 4,818,495 |
| Adjustments to reconcile change in net assets to net cash provided by operating activities | | |
| Depreciation | 82,237 | 64,583 |
| Changes in operating assets and liabilities | | |
| Grants receivable | (192,464) | (137,525) |
| Accounts payable and accrued expenses | (78,033) | 126,382 |
| Accrued payroll and benefits | 65,959 | (116,557) |
| Refundable advances | (1,975) | (34,720) |
| Net cash provided by operating activities | <u>5,950,212</u> | <u>4,720,658</u> |
| Cash flows from investing activities | | |
| Reserve contingency | (893) | (1,059) |
| Acquisition of fixed assets | <u>(1,834,118)</u> | <u>(313,982)</u> |
| Net cash used in investing activities | <u>(1,835,011)</u> | <u>(315,041)</u> |
| Net increase in cash and cash equivalents | 4,115,201 | 4,405,617 |
| Cash and cash equivalents - beginning of year | <u>23,964,961</u> | <u>19,559,344</u> |
| Cash and cash equivalents - end of year | <u><u>\$ 28,080,162</u></u> | <u><u>\$ 23,964,961</u></u> |

The accompanying notes are an integral part of these financial statements.

ACADEMIC LEADERSHIP CHARTER SCHOOL

Notes to the Financial Statements

June 30, 2020 and 2019

Note 1 Organization

Academic Leadership Charter School (the “School”), a 501(c)(3) tax-exempt organization, is a public charter school located in Bronx, New York. The School was granted a provisional charter on February 10, 2009, which was renewed on May 1, 2018 for an additional five years. The School served from Kindergarten through seventh grade in 2015 and added eighth grade in 2016. The School provides a broad-based education for all students, focusing on developing good character as well as comprehension and analytical skills across all disciplines, ranging from the fundamentals of reading and mathematics to fine arts, physical education, drama, and dance.

Note 2 Summary of significant accounting policies

Basis of presentation and use of estimates. The financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (“U.S. GAAP”), which requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Basis of presentation. The financial statements of the School have been prepared in accordance with U.S. generally accepted accounting principles (“US GAAP”), which require the School to report information regarding its financial position and activities according to the following net asset classifications:

Net assets without donor restrictions. Net assets that are not subject to donor-imposed restrictions and may be expended for any purpose in performing the primary objectives of the School.

Net assets with donor restrictions. Net assets subject to stipulations imposed by donors, and grantors. Some donor restrictions are temporary in nature; those restrictions will be met by actions of the School or by the passage of time. Other donor restrictions are perpetual in nature, where by the donor has stipulated the funds be maintained in perpetuity.

Donor restricted contributions are reported as increases in net assets with donor restrictions. When a restriction expires, net assets are reclassified from net assets with donor restrictions to net assets without donor restrictions in the statements of activities.

Cash and cash equivalents. The School considers all short-term, highly liquid investments, such as money market funds, to be cash equivalents.

ACADEMIC LEADERSHIP CHARTER SCHOOL

Notes to the Financial Statements

June 30, 2020 and 2019

Note 2 Summary of significant accounting policies – (continued)

Revenue recognition. The School recognizes revenue from the state and local governments based on the School's charter status and the number of students enrolled. Such revenue is recorded when services are performed, in accordance with the charter agreement. The New York State Department of Education mandates the rate per pupil. Such revenue is recognized ratably over the related school year in which it is earned.

Grants and contracts revenue is recognized when qualifying expenditures are incurred and/or services are provided to the students during the applicable school year. Funds received in advance or any unspent funds for which qualifying expenditures have not been incurred are recorded as refundable advances. Any unspent amounts might be returned to the granting agency or the granting agency can approve that those amounts be applied to a future grant period.

Grants receivable. Grants receivable are recorded at net realizable value and do not bear interest. The allowance for doubtful accounts is the School's best estimate of the amount of probable credit losses in existing receivables. Management determines the allowance based on historical write-off experience and reviews its allowance for doubtful accounts periodically. Past due balances are reviewed individually for collectability. Grants receivable are \$632,390 and \$439,926 at June 30, 2020 and 2019, respectively. There is no allowance recorded at June 30, 2020, as all amounts are deemed collectible.

Property and equipment. Property and equipment are recorded at cost. Donated assets are capitalized at the estimated fair value at date of receipt. Maintenance and repairs are charged to expense as incurred; significant improvements are capitalized. The School capitalizes additions and significant improvements in excess of \$1,000. Depreciation is computed using the straight-line method over estimated useful lives of the respective asset. The estimated depreciable lives of the different classes of property are as follows:

| <u>Asset</u> | <u>Useful life</u> |
|---|--------------------|
| Furniture and fixtures | 7 years |
| Computer, software and office equipment | 3 years |

ACADEMIC LEADERSHIP CHARTER SCHOOL

Notes to the Financial Statements

June 30, 2020 and 2019

Note 2 Summary of significant accounting policies – (continued)

Reserve contingency. Under the provisions of its charter, the School established an escrow amount to pay for legal and audit expenses that would be associated with dissolution, should such event occur.

Donated goods and services. The School is located in two New York City Department of Education facility's and utilizes a combined total of approximately 156,846 square feet for both facilities at no charge. In addition, the School received donated transportation and food service services from the local district. The School was unable to determine a value for these services.

The School shares space with a New York City public school. The School is not responsible for services other than the security needed after public school hours.

Income taxes. The School is tax-exempt under Section 501 (c)(3) of the Internal Revenue Code (IRC) and has been classified as a publicly supported organization as described in IRC sections 509(A)(1) and 170(B)(1)(A)(II).

Accounting principles generally accepted in the United States of America require management to evaluate tax positions taken and recognize a tax liability (or asset) if the School has taken an uncertain position that more likely than not would not be sustained upon examination by taxing authorities. Management has analyzed the tax positions taken and has concluded that, as of June 30, 2020, there are no uncertain positions taken or expected to be taken that would require recognition or disclosure in the accompanying financial statements.

The School is no longer subject to income tax examination by federal, state or local tax authorities for years before June 30, 2017.

Functional expenses. The costs of providing program and other activities have been summarized on a functional basis in the statements of activities. Accordingly, certain costs have been allocated among program services, administrative and fund raising. Such allocations are determined by management on an equitable basis.

The expenses that are allocated include the following:

| | |
|-----------------------------------|-----------------|
| Salaries | Time and effort |
| Payroll taxes and fringe benefits | Time and effort |
| Professional and consulting | Time and effort |
| Insurance | Square footage |
| Repairs and maintenance | Time and effort |

ACADEMIC LEADERSHIP CHARTER SCHOOL

Notes to the Financial Statements

June 30, 2020 and 2019

Note 2 Summary of significant accounting policies – (continued)

Recently adopted accounting pronouncements. On August 18, 2016, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2016-14, *Not-for-Profit Entities* (Topic 958) – *Presentation of Financial Statements of Not-for Profit Entities*. The update addresses the complexity and understandability of net asset classification, efficiencies in information about liquidity and availability of resources, and the lack of consistency in the type of information provided about expenses and investment return. We have implemented ASU 2016-14 and have adjusted the presentation in these financial statements accordingly.

In November 2016, FASB issued ASU 2016-18, *Statement of Cash Flows* (Topic 230): *Restricted Cash*, which requires restricted cash to be included within cash and cash equivalents when explaining the total change in cash for the period within the statement of cash flows. The standard requires retrospective application and represents a change in accounting principal. The adoption of ASU 2016-18 did not have an impact on the School’s financial statements.

In June 2018, FASB issued ASU 2018-08, *Clarifying the Scope and Accounting Guidance for Contributions Received and Contributions Made*. This standard assists entities in evaluating whether transactions should be accounted for as contributions or exchange transactions and determining whether a contribution is conditional or unconditional. The School implemented the provisions of ASU 2018-08 applicable to contributions received in the accompanying financial statements under a modified prospective basis. Accordingly, there is no effect on net assets in connection with the implementation of ASU 2018-08.

Note 3 Retirement plan

The School offers a 401(k) plan for all full-time employees after 90 days. Participation in the plan is voluntary. Employees can make pretax contributions. Up to a maximum of 100% of their annual compensation, up to IRS limits for each calendar year. The School matches 100% of an employee’s contribution up to 5% of the employee’s annual compensation. For the years ended June 30, 2020 and 2019, the School’s matching contribution were \$59,100 and \$74,223 respectively. Such plan assets are held in a separate trust and are not included in the accompanying financial statements. All plan assets are held for the exclusive benefit of the Plan’s participants and beneficiaries

ACADEMIC LEADERSHIP CHARTER SCHOOL**Notes to the Financial Statements**

June 30, 2020 and 2019

Note 4 Liquidity and availability

Financial assets available for general expenditures, that is, without donor or other restrictions limiting their use, within one year of June 30, are:

| Financial assets: | <u>2020</u> | <u>2019</u> |
|---|-----------------------------|-----------------------------|
| Cash and cash equivalents | \$ 28,080,162 | \$ 23,964,961 |
| Grants receivable | <u>632,390</u> | <u>439,926</u> |
| Amount available for general expenditures within one year | <u><u>\$ 28,712,552</u></u> | <u><u>\$ 24,404,887</u></u> |

Note 5 Property, plant and equipment

Property, plant and equipment consist of the following as of June 30:

| | <u>2020</u> | <u>2019</u> |
|--------------------------------|----------------------------|----------------------------|
| Land | \$ 3,259,800 | \$ 3,259,800 |
| Construction-in-progress | 2,412,319 | 768,647 |
| Furniture and fixtures | 233,885 | 205,048 |
| Equipment | 841,984 | 680,375 |
| Software | <u>10,288</u> | <u>10,288</u> |
| | 6,758,276 | 4,924,158 |
| Less, accumulated depreciation | <u>(911,709)</u> | <u>(829,472)</u> |
| | <u><u>\$ 5,846,567</u></u> | <u><u>\$ 4,094,686</u></u> |

Land relates to a parcel of land on 356-362 East 139th Street in the Bronx, New York, which will be used to construct the School's future educational facility.

Depreciation expense for the years ended June 30, 2020 and 2019 were \$82,237 and \$64,583 respectively.

Construction-in-progress at June 30, 2020 and 2019 consist of costs incurred for architecture, engineering, and professional fees related to the construction of the School's future education facility that is not yet in service. Construction-in-progress is stated at cost. No provision for depreciation is made on construction-in-progress until such time as the relevant assets are completed and put into use.

ACADEMIC LEADERSHIP CHARTER SCHOOL
Notes to the Financial Statements
June 30, 2020 and 2019

Note 6 Concentrations of risk

The School maintains its cash in bank deposit accounts which, at times, may exceed federally insured limits. The School has not experienced any losses in such accounts. The management of the school believes it is not exposed to significant credit risk on cash and cash equivalents.

The School received approximately 93% and 90% of its operating revenue, which is subject to specific requirements, from per pupil funding from the New York City Department of Education during the year ended June 30, 2020 and 2019, respectively. Additionally, the School's grants receivable consists of 100% respectively, from the New York State Department of Education.

Note 7 Accrued salaries and other payroll-related expenses

Accrued salaries and other payroll-related expenses consist of amounts earned by the staff during the school year which are paid out over the summer months. As of June 30, 2020 and 2019, total accrued salaries and other payroll-related expenses amounted to \$389,622 and \$323,663 respectively.

Note 8 Contingency

The School participates in a number of federal and state programs. These programs require that the School comply with certain laws, regulations, contracts, and agreements applicable to the programs in which it participates. All funds expended in connection with government grants and contracts are subject to audit by government agencies. While the ultimate liability, if any, from such audits of government grants and contracts by government agencies is presently not determinable, it should not, in the opinion of the management, have a material effect on the financial position or results of operations. Accordingly, no provision for any such liability that may result has been made in the accompanying financial statements.

Note 9 Potential impact of the pandemic

In December 2019, an outbreak of a novel strain of coronavirus ("COVID-19") originated in Wuhan, China and has since spread to other countries, including the U.S. On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic. As a result of the pandemic, the School will begin the 2020-2021 school year utilizing a blended learning environment. On a daily, rotating basis, there will be groups of students attending in-person while the others will be learning remotely at home. The ultimate effect of COVID-19 on the School and its future operations cannot presently be determined.

ACADEMIC LEADERSHIP CHARTER SCHOOL**Notes to the Financial Statements**

June 30, 2020 and 2019

Note 10 Subsequent events

Management has evaluated subsequent events through October 28, 2020, the date that the financial statements were available to be issued. Based on this evaluation, management has determined that no subsequent events have occurred which require disclosure in the financial statements.

Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards

To the Board of Trustees of
Academic Leadership Charter School

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of Academic Leadership Charter School, which comprise the statement of financial position as of June 30, 2020, and the related statements of activities, functional expenses and cash flows for the year then ended, and the related notes to the financial statements, and have issued our report thereon dated October 28, 2020.

Internal control over financial reporting

In planning and performing our audit of the financial statements, we considered Academic Leadership Charter School's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Academic Leadership Charter School's internal control. Accordingly, we do not express an opinion on the effectiveness of Academic Leadership Charter School's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Compliance and other matters

As part of obtaining reasonable assurance about whether Academic Leadership Charter School's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audits, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

Purpose of this report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the organization's internal control or on compliance. This report is an integral part of an audit performed in accordance with Government Auditing Standards in considering the organization's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

NChing LLP

New York, New York
October 28, 2020

APPENDIX D

FORMS OF LOAN AGREEMENT, INDENTURE, SCHOOL LEASE AND MORTGAGE

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LOAN AGREEMENT

Dated as of June 1, 2021

by and between

BUILD NYC RESOURCE CORPORATION,

a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York, having its principal office at One Liberty Plaza, 165 Broadway, New York, New York 10006,
as “**Issuer**”

and

FRIENDS OF ACADEMIC LEADERSHIP CS, LLC,

a limited liability company organized and existing under the laws of the State of New York, having its principal office in New York City at 677 East 141st Street, Bronx, New York 10454, as
“**Institution**”

\$17,770,000
Build NYC Resource Corporation
Revenue Bonds
(Academic Leadership Charter School Project), Series 2021

LOAN AGREEMENT

This **LOAN AGREEMENT**, dated as of June 1, 2021 (this “**Agreement**”), is by and between **BUILD NYC RESOURCE CORPORATION**, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York, having its principal office at One Liberty Plaza, 165 Broadway, New York, New York 10006 (the “**Issuer**”), party of the first part, and **FRIENDS OF ACADEMIC LEADERSHIP CS, LLC**, a New York limited liability company that is a disregarded entity for federal income tax purposes, having its principal office at 677 East 141st Street, Bronx, New York 10454 (the “**Institution**”), the sole member of which is currently Academic Leadership Charter School (in such role as initial sole member, the “**School**”) a not-for-profit education corporation exempt from federal taxation to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”), part (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in Section 1.1 of this Agreement).

WITNESSETH:

WHEREAS, the Issuer is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Certificate of Incorporation and By-Laws (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “**City**”) by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other eligible projects that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Certificate of Incorporation of the Issuer further provides that the lessening of the burdens of government and the exercise of the powers conferred on the Issuer are the performance of an essential governmental function, which activities will assist the City in reducing unemployment and promoting additional job growth and economic development; and

WHEREAS, the Institution has entered into negotiations with officials of the Issuer for the Issuer’s assistance with a tax-exempt bond transaction, the proceeds of which, together with other funds of the Institution, will be used by the Institution for the construction, renovation, equipping and furnishing of the Improvements as part of the Project; and

WHEREAS, the Issuer has determined that the providing of financial assistance to the Institution for the Project will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer; and

WHEREAS, as a result of such negotiations, the Institution has requested the Issuer to issue its bonds to finance a portion of the costs of the Project; and

WHEREAS, the Issuer adopted the Approving Resolution authorizing the Project and the Bond Resolution authorizing the issuance of its revenue bonds to finance a portion of the costs of the Project; and

WHEREAS, to facilitate the Project and the issuance by the Issuer of its revenue bonds to finance a portion of the costs of the Project, the Issuer and the Institution have entered into negotiations pursuant to which (i) the Issuer will make the Loan of the proceeds of the Initial Bonds, in the original aggregate principal amount of the Initial Bonds, to the Institution pursuant to this Agreement, and (ii) the Institution will execute the Promissory Note in favor of the Issuer to evidence the Institution's obligation under this Agreement to repay the Loan, and the Issuer will endorse the Promissory Note to the Trustee; and

WHEREAS, to provide funds for a portion of the costs of the Project and for incidental and related costs and to provide funds to pay the costs and expenses of the issuance of the Initial Bonds, the Issuer has authorized the issuance of the Initial Bonds in the Authorized Principal Amount pursuant to the Bond Resolution and the Indenture; and

WHEREAS, concurrently with the execution hereof, in order to further secure the Initial Bonds, the Institution will grant a mortgage lien on and security interest in its interest in the Mortgaged Property to the Issuer and the Trustee pursuant to the Mortgage, and the Issuer will assign its right, title and interest under the Mortgage to the Trustee pursuant to the Assignment of Mortgage.

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

Section 1.1. Definitions. The following capitalized terms shall have the respective meanings specified for purposes of this Agreement.

Additional Bonds shall mean one or more Series of additional bonds issued, executed, authenticated and delivered under the Indenture.

Additional Improvements shall have the meaning specified in Section 3.4(a).

Additional Indebtedness means with respect to the Institution or the School (A) all indebtedness, whether or not represented by bonds, debentures, notes or other securities, for the repayment of money borrowed, (B) all deferred indebtedness for the payment of the purchase price of property or assets purchased, including, without limitation, capitalized leases, (C) all guaranties, endorsements, assumptions and other contingent obligations in respect of, or to purchase or otherwise acquire, indebtedness of others, and (D) all indebtedness secured by any mortgage, pledge or Lien existing on property owned, subject to such mortgage, pledge or Lien, whether or not indebtedness secured thereby shall have been assumed. In computing the amount of Additional Indebtedness at any time there shall be excluded (A) any operating leases, (B) all indebtedness subordinate to the Bonds and (C) any particular item of indebtedness if before the maturity thereof there shall have been deposited with the lender, creditor, trustee or other proper depository the necessary funds (or evidences of such Additional Indebtedness) for the payment, redemption or satisfaction of such item of Additional Indebtedness (and such funds or evidences of such Additional Indebtedness shall thereafter be excluded from any computation of the assets of the Institution or the School).

Additional Parity Indebtedness means any Additional Indebtedness intended to be secured under the Custody Agreement on a parity basis as to payment with the Bonds hereunder or the payment obligations of the School pursuant to the School Lease whether or not sharing in a parity lien of the Mortgage on the Mortgaged Property and the terms of which, including, without limitation, principal and interest payment dates, shall be satisfactory to the Issuer.

Affiliate means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with such given Person.

Agreement shall mean this Loan Agreement, dated as of the date set forth in the first paragraph hereof, between the Issuer and the Institution, and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith and with the Indenture.

Annual Administrative Fee shall mean that annual administrative fee established from time to time by the Issuer's Board of Directors as generally applicable to Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from such general applicability as may be established by the Issuer's Board of Directors).

Approved Facility shall mean the Facility as occupied, used and operated by the Institution substantially for the Approved Project Operations, including such other activities as may be substantially related to or substantially in support of such operations, all to be effected in accordance with this Agreement.

Approved Project Operations shall mean the facility located at 356-62 East 139th Street, Bronx, New York 10454, for use by the Institution and the School in the providing of educational services for students from grades K through 8.

Approving Resolution shall mean the resolution of the Issuer adopted on July 16, 2019 authorizing the Project, and undertaking to permit the issuance of the Initial Bonds to finance the Project.

Asserted Cure has the meaning specified in Section 8.30(k)(i).

Asserted LW Violation has the meaning specified in Section 8.30(k)(i).

Assignment of Contracts shall mean the Assignment of Contracts and Interest in Licenses, Permits and Agreements, dated as of even date herewith, from the Institution to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Assignment of Mortgage shall mean the Assignment of Mortgage and Security Agreement relating to the Mortgage and Security Agreement (Building Loan) relating to the Facility, dated as of even date herewith, from the Issuer to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Authorized Denomination shall mean, in the case of the Initial Bonds, \$5,000 or any integral multiple of \$5,000 in excess thereof.

Authorized Principal Amount shall mean, in the case of the Initial Bonds, \$17,770,000.

Authorized Representative shall mean, (i) in the case of the Issuer, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, or any other officer or employee of the Issuer who is authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Institution, a person named in Exhibit C— “Authorized Representative”, or any other officer or employee of the Institution who is authorized to perform specific duties hereunder or under any other Project Document and of whom another Authorized Representative of the Institution has given written notice to the Issuer and the Trustee; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of this Agreement or any other Project Document, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Available Cash Balance means the sum of the School’s cash, investments and unused and available line(s) of credit available for short term operating purposes.

Balloon Debt means Long-Term Indebtedness where the principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due (or payable in respect of any required purchase of such Long-Term Indebtedness by such Person on demand) in any Fiscal Year either are equal to at least 25% of the total principal of (any premium, if any) and interest and other debt service charges on such Long-Term Indebtedness or exceed by more than 50% the greatest amount of principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due in any preceding or succeeding Fiscal Year.

Beneficial Owner shall mean, whenever used with respect to an Initial Bond, the Person in whose name such Initial Bond is recorded as the Beneficial Owner of such Initial Bond by the respective systems of DTC and each of the Participants of DTC. If at any time the Initial Bonds are not held in the Book-Entry System, Beneficial Owner shall mean “Holder” for purposes of the Security Documents.

Benefits shall have the meaning set forth in Section 7.1(a).

Bond Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Bondholder, Holder of Bonds, Holder or holder shall mean any Person who shall be the registered owner of any Bond or Bonds.

Bond Registrar shall mean the Trustee acting as registrar as provided in Section 3.10 of the Indenture.

Bond Resolution shall mean the resolution of the Issuer adopted on July 16, 2019 authorizing the issuance of the Initial Bonds.

Bonds shall mean the Initial Bonds and any Additional Bonds.

Building Loan Agreement shall mean the Building Loan Agreement, dated as of even date herewith, among the Issuer, the Institution and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Business Day shall mean any day that shall not be:

- (i) a Saturday, Sunday or legal holiday;
- (ii) a day on which banking institutions in the City are authorized by law or executive order to close; or
- (iii) a day on which the New York Stock Exchange or the payment system of the Federal Reserve System is closed.

Business Incentive Rate shall mean the discount energy transportation and delivery rate provided through the Business Incentive Rate program co-administered by NYCEDC and Consolidated Edison Company of New York, Inc.

Certificate shall have the meaning set forth in Section 8.1(a).

CGL shall have the meaning set forth in Section 8.1(a).

Charter School Act shall mean the New York Charter Schools Act of 1998, as amended (N.Y. Educ. Law Section 2850 et seq.).

City shall mean The City of New York, New York.

Claims shall have the meaning set forth in Section 8.2(a).

Closing Date shall mean June 16, 2021, the date of the initial issuance and delivery of the Initial Bonds.

CM shall have the meaning set forth in Section 8.1(a).

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder. All references to Sections of the Code or regulations thereunder shall be deemed to include any such Sections or regulations as they may hereafter be renumbered in any subsequent amendments to the Code or such regulations.

Completed Improvements Square Footage shall mean approximately 60,000 square feet, the square footage of the Improvements upon completion of the Project Work.

Completion Deadline shall mean July 1, 2023.

Comptroller has the meaning specified in Section 8.30(b).

Concessionaire has the meaning specified in Section 8.30(b).

Conduct Representation shall mean any representation by the Institution under Section 2.2(t), or by any other Person in any Required Disclosure Statement delivered to the Issuer.

Construction shall have the meaning set forth in Section 8.1(a).

Continuing Disclosure Agent shall mean the School Improvement Partnership, its successors and assigns.

Continuing Disclosure Agreement shall mean the Continuing Disclosure Agreement, dated June 1, 2021, by and among the Institution, the School, and the Continuing Disclosure Agent pursuant to Section 8.27 and, as to any Series of Additional Bonds, the continuing disclosure agreement executed by the Institution.

Contractor shall have the meaning set forth in Section 8.1(a).

Control or **Controls**, including the related terms “controlled by” and “under common control with”, shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

Costs of Issuance shall mean issuance costs with respect to the Initial Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following: Underwriter's spread (whether realized directly or derived through the purchase of the Initial Bonds at a discount below the price at which they are expected to be sold to the public); or fee; counsel fees (including bond counsel, counsel to the Underwriter, Trustee's counsel, Issuer's counsel, Institution's counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); financial advisor fees of any financial advisor to the Issuer or the Institution incurred in connection with the issuance of the Initial Bonds; engineering and feasibility study costs; guarantee fees (other than Qualified Guarantee Fees, as defined in the Tax Regulatory Agreement); Rating Agency fees; Trustee and Paying Agent fees; accountant fees and other expenses related to issuance of the Initial Bonds; printing costs (for the Initial Bonds and for the preliminary and final offering documents relating to the Initial Bonds); public approval and process costs; fees and expenses of the Issuer incurred in connection with the issuance of the Initial Bonds; Blue Sky fees and expenses; and similar costs.

Covered Counterparty has the meaning specified in Section 8.30(b).

Covered Employer has the meaning specified in Section 8.30(b).

Custodian shall mean Bank of New York Mellon, as custodian under the Custody Agreement.

Custody Agreement shall mean the custody agreement dated as of June 1, 2021 by and among the Institution, the School, the Trustee and the Custodian, as said custody agreement may be amended or supplemented from time to time.

Custody Agreement Notice shall mean the notice prepared by the Trustee in accordance with the provisions of Section 5.03 of the Indenture.

DCA has the meaning specified in Section 8.30(b).

Days Cash on Hand Requirement means, for any date of calculation, the number of days determined by dividing the product of Available Cash Balance and three hundred sixty-five (365) by Operating Expenses for such Fiscal Year.

Debt Service Reserve Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Debt Service Reserve Fund Requirement shall mean, as of any particular date of computation, an amount (which amount may take the form of cash, Qualified Investments or any combination thereof) equal to the lesser of:

(i) ten percent (10%) of the Net Proceeds (as defined in the Tax Regulatory Agreement) of the Outstanding Bonds;

(ii) 100% of the greatest amount required in the then current or any future calendar year to pay the sum of the scheduled principal and interest payable on Outstanding Bonds; or

(iii) 125% of the average annual amount required in the then current or any future bond year to pay the sum of scheduled principal and interest on Outstanding Bonds.

Defeasance Obligations shall mean Government Obligations that are not subject to redemption prior to maturity.

Determination of Taxability shall mean:

(i) (A) the adoption, promulgation or enactment of any federal statute or regulation, or any determination, decision, decree or ruling made by the Commissioner or any District Director of the Internal Revenue Service;

(B) the issuance of a public or private ruling or a technical advice memorandum by the Internal Revenue Service in which the Institution has participated or has been given the opportunity to participate, and which ruling or memorandum the Institution, in its discretion, does not contest or from which no further right of judicial review or appeal exists;

(C) a determination from which no further right of appeal exists of any court of competent jurisdiction in the United States in a proceeding in which the Institution has participated or has been a party, or has been given the opportunity to participate or be a party; or

(D) the admission in writing by the Institution;

in any case, to the effect that the interest payable on the Bond of a Holder or a former Holder thereof is includable in gross income for federal income tax purposes; or

(ii) the receipt by the Trustee of a written opinion of Nationally Recognized Bond Counsel to the effect that the interest payable on the Bonds is includable in gross income for federal income tax purposes or the refusal of any such counsel to render a written opinion that the interest on the Bonds is not so includable when required pursuant to a request by a Bondholder in accordance with the procedures set forth in the Indenture;

provided, however, that no such Determination of Taxability described in clauses (i)(B) or (i)(C) of this definition shall be considered to exist unless (1) the Holder or former Holder of the Bond

involved in such proceeding (a) gives the Institution and the Trustee prompt notice of the commencement thereof and (b) (if the Institution agrees to pay all expenses in connection therewith) offers the Institution the opportunity to control the defense thereof and (2) either (a) the Institution does not agree within thirty (30) days of receipt of such offer to pay such expenses and to control such defense or (b) the Institution shall exhaust or choose not to exhaust all available proceedings for the contest, review, appeal or rehearing of such decree, judgment or action which the Institution determines to be appropriate. A Bondholder shall have the right to request the Trustee to obtain a written opinion of Nationally Recognized Bond Counsel pursuant to clause (ii) above, at the expense of the Institution, upon delivery by the Bondholder to the Institution of a letter from the Bondholder's accountant stating that, in his or her reasonable opinion, interest on the Bonds is includable in the gross income of such Bondholder for federal income tax purposes and stating the reasons for such determination. No Determination of Taxability described above will result from the inclusion of interest on any Bond in the computation of minimum or indirect taxes.

DOL shall have the meaning set forth in Section 8.7(a).

DTC shall mean The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

Due Date shall have the meaning set forth in Section 9.9(a).

Earnings Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Education Aid shall mean, collectively, all School District Payments, State Education Operating Aid, Disability Aid and any Other Education Aid payable to the School pursuant to the New York State Education Law or federal law for the payment of operations of the School at the Facility.

Employment Information shall have the meaning set forth in Section 8.7(c).

Entity shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

Environmental Audit shall mean that certain Phase I Environmental Site Assessment Report dated January 21, 2016 and that certain Phase II Environmental Site Assessment Report dated February 29, 2016, prepared by the Environmental Auditor.

Environmental Auditor shall mean PVE Sheffler.

Estimated Project Cost shall mean \$37,202,000.

Event of Default shall have the meaning specified in Section 9.1.

Event of Taxability shall mean the date specified in a Determination of Taxability as the date interest paid or payable on any Bond becomes includable for federal income tax purposes in the gross income of any Holder thereof as a consequence of any act, omission or event whatsoever, including any change of law, and regardless of whether the same was within or beyond the control of the Institution.

Excess Net Revenues means Gross Revenues, less Operating Expenses, annual debt service on Long-Term Indebtedness, payments on any capital leases, and any Debt Service Reserve Fund deficiency payments.

Existing Facility Property shall have the meaning set forth in Section 3.5(a).

Facility shall mean, collectively, the Facility Personalty and the Facility Realty.

Facility Personalty shall mean those items of machinery, equipment and other items of personalty the acquisition and/or the installation of which is to be financed in whole or in part with the proceeds of the Bonds for installation or use at the Facility Realty as part of the Project pursuant to Section 3.2 and described in Exhibit B — “Description of the Facility Personalty”, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Personalty shall, in accordance with the provisions of Sections 3.5 and 6.4, include all property substituted for or replacing items of Facility Personalty and exclude all items of Facility Personalty so substituted for or replaced, and further exclude all items of Facility Personalty removed as provided in Section 3.5.

Facility Realty shall mean, collectively, the Land and the Improvements.

Final Project Cost Budget shall mean that certain budget of costs paid or incurred for the Project to be submitted by the Institution pursuant to Section 3.2(f) upon completion of the Project.

Fiscal Year shall mean a year of 365 or 366 days, as the case may be, commencing on July 1 and ending on June 30 of the next calendar year, or such other fiscal year of similar length used by the Institution for accounting purposes as to which the Institution shall have given prior written notice thereof to the Issuer and the Trustee at least ninety (90) days prior to the commencement thereof.

Fitch shall mean Fitch, Inc., a Delaware corporation, its successors and assigns, and if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

Fixed Date Deliverables shall have the meaning set forth in Section 9.9(a)(ii).

GAAP shall mean those generally accepted accounting principles and practices that are recognized as such by the American Institute of Certified Public Accountants or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and that are consistently applied for all periods, after the Closing Date, so as to properly

reflect the financial position of the Institution, except that any accounting principle or practice required to be changed by the Financial Accounting Standards Board (or other appropriate board or committee of the said Board) in order to continue as a generally accepted accounting principle or practice may be so changed.

GC shall have the meaning set forth in Section 8.1(a).

Governing Body shall mean, when used with respect to any Entity, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Entity are exercised.

Government Obligations shall mean the following:

- (i) direct and general obligations of, or obligations unconditionally guaranteed by, the United States of America;
- (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America for the timely payment thereof; or
- (iii) securities or receipts evidencing ownership interests in obligations or specified portions (such as principal or interest) of obligations described in clauses (i) or (ii) above.

Gross Revenues means, regardless of the source, all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of the School, to the extent permitted thereby and by law, including accounts receivables or other rights to receive such revenues, including, without limitation, Education Aid, proceeds derived from insurance, condemnation proceeds, accounts, contract rights and other rights and assets, whether now or hereafter owned, held or possessed by the School; and all gifts, grants, bequests and contributions (including income and profits therefrom) to the extent permitted by the terms thereof and by law.

Hazardous Materials shall include any petroleum, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 5101, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

Impositions shall have the meaning set forth in Section 8.17(a).

Improvements shall mean:

(i) all buildings, structures, foundations, related facilities, fixtures and other improvements of every nature whatsoever existing on the Closing Date and hereafter erected or situated on the Land;

(ii) any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Land (including any improvements or demolitions made as part of the Project Work pursuant to Section 3.2); and

(iii) all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

Indemnification Commencement Date shall mean July 16, 2019, the date on which the Issuer first adopted a resolution with respect to the Project.

Indemnified Parties shall have the meaning set forth in Section 8.2(a).

Indenture shall mean the Indenture of Trust, dated as of even date herewith, between the Issuer and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with Article XI of the Indenture.

Independent when used with respect to any Person means such a Person who (i) is independent in fact, (ii) does not have a direct financial interest or any material indirect financial interest in either Institution, and (iii) is not connected with either Institution as an officer, employee, promoter or member of the governing body of either thereof.

Independent Accountant shall mean an Independent certified public accountant or firm of independent certified public accountants selected by the Institution and approved by the Issuer and the Trustee (such approvals not to be unreasonably withheld or delayed).

Independent Engineer shall mean a Person (not an employee of either the Issuer or the Institution or any Affiliate of either thereof) registered and qualified to practice engineering or architecture under the laws of the State, selected by the Institution, and approved in writing by the Trustee (which approval shall not be unreasonably withheld).

Independent Financial Consultant shall mean a firm (and not an individual) which (a) is not, and no member, stockholder, director, officer or employee of which is, an officer or employee of the Institution, the School or any Affiliate of either, (b) is a firm having the skill and experience necessary to render the particular report required by the provision of this Agreement in which such requirement appears, and (c) is Independent.

Information Recipients shall have the meaning set forth in Section 8.7(c).

Initial Annual Administrative Fee shall mean \$1,250.

Initial Bonds shall mean the Issuer's \$17,770,000 Revenue Bonds (Academic Leadership Charter School Project), Series 2021, authorized, issued, executed, authenticated and delivered on the Closing Date under the Indenture.

Institution shall mean Friends of Academic Leadership CS, LLC ("Friends LLC"), a limited liability company organized and existing under the laws of the State of New York that is a disregarded entity for federal tax purposes, having as its sole member, the Organization, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Institution under Section 8.9 or 8.20.

Institution's Property shall have the meaning specified in Section 3.4(d).

Insured shall have the meaning set forth in Section 8.1(a).

Insurer shall have the meaning set forth in Section 8.1(a).

Interest Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Interest Payment Date shall mean, with respect to the Initial Bonds, June 15 and December 15 of each year, commencing December 15, 2021, and with respect to any Series of Additional Bonds, the dates set forth therefor in the Supplemental Indenture pursuant to which such Series of Additional Bonds are issued.

IRS Determination Letter shall mean that certain ruling letter dated June 23, 2009 issued by the Internal Revenue Service to the Institution confirming that the School is a Tax-Exempt Organization.

ISO shall have the meaning set forth in Section 8.1(a).

ISO Form CG-0001 shall have the meaning set forth in Section 8.1(a).

Issuer shall mean Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State at the direction of the Mayor of the City, and its successors and assigns.

Issuer's Reserved Rights shall mean, collectively,

(i) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under this Agreement;

(ii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under this Agreement;

(iii) the right of the Issuer to enforce in its own behalf the obligation of the Institution under this Agreement to complete the Project;

(iv) the right of the Issuer to enforce or otherwise exercise in its own behalf all agreements of the Institution under this Agreement with respect to ensuring that the Facility shall always constitute the Approved Facility;

(v) the right of the Issuer to amend with the Institution the provisions of Section 5.1 without the consent of the Trustee or any Bondholder;

(vi) the right of the Issuer in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Article III (except for Section 3.1), Sections 4.4, 4.5 and 4.6, Article V, Article VI, Article VIII (except for Section 8.26), Article IX, Article X, Sections 11.1, 11.3 and 11.5, and Article XII (except Section 12.2); and

(vii) the right of the Issuer in its own behalf to declare a default with respect to any of the Issuer's Reserved Rights and exercise the remedies set forth in Section 9.2(b).

Land shall mean that certain lot, piece or parcel of land in the Borough of the Bronx, Block 2301 and Lots 12,13,14, and 15, generally known by the street address 356-62 East 139th Street, Bronx, New York 10454, all as more particularly described in Exhibit A — "Description of the Land", together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 10.11(c).

Land Square Footage shall mean approximately .29 acres or 12,632 square feet.

Legal Requirements shall mean the Constitutions of the United States and the State of New York and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates of occupancy, directions and requirements (including zoning, land use, planning, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wage, living wage, prevailing wage, sick leave, healthcare, benefits and employment practices) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, including those of the City, foreseen or unforeseen, ordinary or extraordinary, that are applicable now or may be applicable at any time hereafter to (i) the Institution, (ii) the Facility or any part thereof, or (iii) any use or condition of the Facility or any part thereof.

Letter of Representation and Indemnity Agreement shall mean the Letter of Representation and Indemnity Agreement, dated the Closing Date, from the Institution to the Issuer, the Trustee and the Underwriter.

Liability shall have the meaning set forth in Section 8.2(a).

Liens shall have the meaning specified in Section 8.11(a).

Loan shall mean the loan made by the Issuer to the Institution pursuant to this Agreement as described in Section 4.1.

Loan Payment Date shall mean the fifteenth (15th) day of each January, March, May, July, September and November (or, if such date is not a Business Day, the immediately preceding Business Day), commencing July 15, 2021.

Long-Term Debt Service Coverage Ratio means, for any Fiscal Year of the School, or other specified period, the ratio determined by dividing the Net Income Available for Debt Service by the debt service due in that Fiscal Year. When calculating the Long-Term Debt Coverage Ratio, capitalized interest shall be counted as income.

Long-Term Indebtedness means any Additional Indebtedness of the School other than Short-Term Indebtedness and indebtedness subordinate to the Bonds.

Loss Event shall have the meaning specified in Section 6.1.

LW has the meaning specified in Section 8.30(b).

LW Agreement has the meaning specified in Section 8.30(b).

LW Agreement Delivery Date has the meaning specified in Section 8.30(b).

LW Event of Default has the meaning specified in Section 8.30(b).

LW Law has the meaning specified in Section 8.30(b).

LW Term has the meaning specified in Section 8.30(b).

LW Violation Final Determination has the meaning specified in Section 8.30(k)(i)(1), Section 8.30(k)(i)(2)(A) or Section 8.30(k)(i)(2)(B), as applicable.

LW Violation Initial Determination has the meaning specified in Section 8.30(k)(i)(2).

LW Violation Notice has the meaning specified in Section 8.30(k)(i).

LW Violation Threshold has the meaning specified in Section 8.30(b).

Majority Holders shall mean the Beneficial Owners of at least a majority in aggregate principal amount of the Bonds Outstanding, or, if the Bonds shall cease to be in book-entry form, the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding.

Management Consultant means an Independent professional firm or corporation hired by the Institution, and acceptable to the Majority Holders, pursuant to Section 8.32(b) hereof.

Maturity Date shall mean June 15, 2036.

Maximum Annual Debt Service means, as of any date of calculation, the highest principal and interest payment requirements with respect to all Long-Term Indebtedness of the School outstanding for any succeeding Fiscal Year, and, for such purposes, any one or more of the following rules shall apply:

(a) *Committed Take Out* - if such Person has received a binding commitment, within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to refund or purchase any of its Long-Term Indebtedness at its maturity (or, if due on demand, or payable in respect of any required purchase of such Long-Term Indebtedness by such Person, at any date on which demand may be made), then the portion of the Long-Term Indebtedness committed to be refunded or purchased shall be excluded from such calculation and the principal of (and premium, if any) and interest on the Long-Term Indebtedness incurred for such refunding or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the maturity or purchase date of the Long-Term Indebtedness to be refunded or purchased, shall be added;

(b) *Pro Forma Refunding* - in the case of Balloon Debt, if the Person obligated thereon shall deliver to the Trustee a certificate of a nationally recognized firm of investment bankers or financial consultants dated within 90 days prior to the date of delivery of such certificate to the Trustee stating that financing at a stated interest rate (which shall not be less than the *Bond Buyer* Revenue Bond Index or, if the *Bond Buyer* Revenue Bond Index is unavailable, a comparable index chosen by the Trustee) with a stated maturity not greater than 35 years is reasonably attainable (and such opinion is reasonably acceptable to the Trustee) on the date of such certificate to refund any of such Balloon Debt, then for the purpose of calculating what future annual debt service requirements will be, any installment of principal of (and premium, if any) and interest and other debt service charges on such Balloon Debt that could so be refunded shall be excluded from such calculation and the principal plus interest of the refunding debt shall be evenly allocated over the life of the refunding debt with equal principal payments plus interest deemed due each year;

(c) *Prefunded Payments* - principal of (and premium, if any) and interest and other debt service charges on debt, or portions thereof, shall not be included in the computation of Maximum Annual Debt Service for any Fiscal Year for which such principal, premium, interest, or other debt service charges are payable from funds irrevocably deposited or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust or escrowed with the Trustee, or any Person approved by the Trustee).

Merge or Merger shall have the meaning specified in Section 8.20(a)(v).

Moody's shall mean Moody's Investors Service Inc., a Delaware corporation, its successors and assigns, and if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any

other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

Mortgage shall mean the Mortgage and Security Agreement (Building Loan) relating to the Facility, dated as of even date herewith, and from the Institution to the Issuer and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Mortgaged Property shall have the meaning specified in the Mortgage.

MSRB shall mean the Municipal Securities Rulemaking Board or its successor entity.

Nationally Recognized Bond Counsel shall mean Bryant Rabbino LLP or other counsel acceptable to the Issuer and the Trustee and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

Net Income Available for Debt Service means, for any period of determination thereof, Gross Revenues of the School for such period, plus all interest earnings on moneys held in the Debt Service Reserve Fund established under the Indenture, minus the School's total Operating Expenses for such period but excluding (i) any profits or losses which would be regarded as extraordinary items under GAAP, (ii) cancellation of indebtedness income, (iii) proceeds of Bonds or any other Indebtedness permitted by this Agreement, (iv) proceeds of insurance policies, other than the policies for business interruption insurance, maintained by or for the benefit of the School, the proceeds of any sale, transfer or other disposition of the Facility or any other of the School's assets by the School, and any condemnation or any other damage award received by or owing to the School and (v) interest expense.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Issuer or the Trustee) incurred in the collection thereof.

Notice Parties shall mean the Issuer, the Institution, the Bond Registrar, the Paying Agents and the Trustee.

Notification of Failure to Deliver shall have the meaning specified in Section 9.9(b).

NYCDOF shall mean the New York City Department of Finance.

NYCEDC shall mean New York City Economic Development Corporation, a New York not-for-profit corporation, and any successor thereof.

NYCIDA shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body,

board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Operating Expenses means fees and expenses of the School, including maintenance, repair expenses, utility expenses, real estate taxes, insurance premiums, administrative and legal expenses, miscellaneous operating expenses, advertising and promotion costs, payroll expenses (including taxes), the cost of material and supplies used for current operations of the School, the cost of vehicles, equipment leases and service contracts, taxes upon the operations of the School not otherwise mentioned herein, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which may be reasonably be expected to be incurred in accordance with GAAP, all in such amounts as reasonably determined by the School; provided however, "Operating Expenses" shall not include (i) those expenses which are actually paid from any revenues of the School which are not Gross Revenues, (ii) spending for items accounted for as capital expenditures under GAAP, (iii) expenses or other amounts paid into and from the Repair and Replacement Fund, or (iv) replenishments of the Debt Service Reserve Fund.

Operations Commencement Date shall have the meaning set forth in Section 5.1(a).

Opinion of Counsel shall mean a written opinion of counsel for the Institution or any other Person (which counsel shall be reasonably acceptable to the Issuer and the Trustee) with respect to such matters as required under any Project Document or as the Issuer or the Trustee may otherwise reasonably require, and which shall be in form and substance reasonably acceptable to the Issuer and the Trustee.

Organizational Documents shall mean, (i) in the case of an Entity constituting a limited liability company, the articles of organization or certificate of formation, and the operating agreement of such Entity, (ii) in the case of an Entity constituting a corporation, the charter, articles of incorporation or certificate of incorporation, and the bylaws of such Entity, and (iii) in the case of an Entity constituting a general or limited partnership, the partnership agreement of such Entity.

Other Education Aid shall mean any federal or State payments, other than School District Payments, State Education Operating Aid or Disability Aid, payable to the School for the purpose of funding operations of the School at the Facility.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with Article X of the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III of the Indenture,

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder or under any other Security Document, Bonds owned by the Institution or any Affiliate of the Institution shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Institution or any Affiliate of the Institution.

Owed Interest has the meaning specified in Section 8.30(b).

Owed Monies has the meaning specified in Section 8.30(b).

Participants shall mean those financial institutions for whom the Securities Depository effects book entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

Paying Agent shall mean any paying agent for the Bonds appointed pursuant to the Indenture (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the Indenture.

Per Diem Fees shall mean, collectively, the Per Diem Late Fee and the Per Diem Supplemental Late Fee.

Per Diem Late Fee shall mean that per diem late fee established from time to time by the Issuer's Board of Directors generally imposed upon Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from such general applicability as may be established by the Issuer's Board of Directors) and that have not (x) paid

to the Issuer the Annual Administrative Fee on the date required under Section 8.3, (y) delivered to the Issuer all or any of the Fixed Date Deliverables on the respective dates required under Section 8.14 or 8.16, and/or (z) delivered to the Issuer all or any of the Requested Document Deliverables under Section 8.15 within five (5) Business Days of the Issuer having made the request therefor.

Per Diem Supplemental Late Fee shall mean that supplemental per diem late fee established from time to time by the Issuer's Board of Directors generally imposed upon Entities receiving or that have received financial assistance from the Issuer (subject to such exceptions from general applicability as may be established by the Issuer's Board of Directors).

Permitted Encumbrances shall mean:

(i) the Mortgage (as assigned by the Assignment of Mortgage), the Building Loan Agreement and any other Project Document;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien, security interest, encumbrance or charge or right in respect thereof, placed on or with respect to the Facility or any part thereof, if payment is not yet due and payable, or if such payment is being disputed pursuant to Section 8.11(b);

(iv) utility, access and other easements and rights of way, restrictions and exceptions that an Authorized Representative of the Institution certifies to the Issuer and the Trustee will not materially interfere with or impair the Institution's use and enjoyment of the Facility as provided in this Agreement;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, as set forth in a certificate of an Authorized Representative of the Institution delivered to the Issuer and the Trustee, either singly or in the aggregate, render title to the Facility unmarketable or materially impair the property affected thereby for the purpose for which it was acquired or purport to impose liabilities or obligations on the Issuer;

(vi) those exceptions to title to the Mortgaged Property enumerated in the title insurance policy delivered pursuant to Section 3.7 insuring the Trustee's mortgagee interest in the Mortgaged Property, a copy of which is on file at the offices of the Issuer and at the designated corporate trust office of the Trustee;

(vii) liens arising by reason of good faith deposits with the Institution in connection with the tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the Institution to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

(viii) any lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Institution to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, old age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

(ix) any judgment lien against the Institution, so long as the finality of such judgment is being contested in good faith and execution thereon is stayed;

(x) any purchase money security interest in movable personal property, including equipment leases and financing;

(xi) liens on property due to rights of governmental entities or third party payers for recoupment of excess reimbursement paid;

(xii) a lien, restrictive declaration or performance mortgage with respect to the operation of the Facility arising by reason of a grant or other funding received by the Institution from the City, the State or any governmental agency or instrumentality;

(xiii) any lien, security interest, encumbrances or charge which exists in favor of the Trustee or to which the Trustee shall consent in writing; and

(xiv) any lien securing Additional Parity Indebtedness or junior Indebtedness of the Institution or the School, so long as permitted under the Loan Agreement and the School Lease

Person shall mean an individual or any Entity.

Policy(ies) shall have the meaning specified in Section 8.1(a).

Predecessor Institution shall have the meaning specified in Section 8.20(b)(ii).

Prevailing Wage Law has the meaning specified in Section 8.30(b).

Principal Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Principals shall mean, with respect to any Entity, the most senior three officers of such Entity, any Person with a ten percent (10%) or greater ownership interest in such Entity and any Person as shall have the power to Control such Entity, and "principal" shall mean any of such Persons.

Project shall mean the financing of (1) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage

and rooftop play space with a maximum physical capacity for 600 students in grades 3 to 5 on an approximately 0.29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454 the making of renovations to such New Facility, and the acquisition and installation of machinery and equipment in connection therewith, all for use in the providing of services to the School, and (2) the payment of certain costs of issuing the Initial Bonds.

Project Application Information shall mean the eligibility application and questionnaire submitted to the Issuer by or on behalf of the Institution, for approval by the Issuer of the Project and the providing of financial assistance by the Issuer therefor, together with all other letters, documentation, reports and financial information submitted in connection therewith.

Project Completion Date shall mean the date by which all of the following conditions have been satisfied: (i) the Issuer shall have received a signed and complete certificate of an Authorized Representative of the Institution in substantially the form set forth in Exhibit G – “Form of Project Completion Certificate”, together with all attachments required thereunder, (ii) the Project Work shall have been finished and shall have been completed substantially in accordance with the plans and specifications therefor, (iii) the Issuer shall have received a copy of a certificate of occupancy issued by the New York City Department of Buildings from the Institution, (iv) there shall be no certificate, license, permit, authorization, written approval or consent or other document required to permit the occupancy, operation and use of the Facility as the Approved Facility that has not already been obtained or received, except for such certificates, licenses, permits, authorizations, written approvals and consents that will be obtained in the ordinary course of business and the issuance of which are ministerial in nature, and (v) the Facility shall be ready for occupancy, use and operation for the Approved Project Operations in accordance with all applicable laws, regulations, ordinances and guidelines.

Project Cost Budget shall mean that certain budget for costs of the Project Work as set forth by the Institution in Exhibit E — “Project Cost Budget”, provided that if the Project Improvements Investment amount is modified in the M/WBE Participation Plan, as the same may be amended from time to time, it shall be deemed to be amended for all purposes under this Agreement.

Project Costs shall mean:

(i) all costs of engineering and architectural services with respect to the Project, including the cost of test borings, surveys, estimates, permits, plans and specifications and for supervising demolition, construction and renovation, as well as for the performance of all other duties required by or consequent upon the proper construction of, and the making of alterations, renovations, additions and improvements in connection with, the completion of the Project;

(ii) all costs paid or incurred for labor, materials, services, supplies, machinery, equipment and other expenses and to contractors, suppliers, builders and materialmen in connection with the completion of the Project;

(iii) the interest on the Bonds during the construction and renovation of the Project;

(iv) all costs of contract bonds and of insurance that may be required or necessary during the period of Project construction and renovation;

(v) the cost of acquisition of the Facility Realty;

(vi) all costs of title insurance as provided in Section 3.7 of the Loan Agreement;

(vii) the payment of the Costs of Issuance with respect to the Initial Bonds;

(viii) the payment of the fees and expenses of the Trustee during the period of construction and renovation of the Project;

(ix) all costs which the Institution shall be required to pay, under the terms of any contract or contracts, for the completion of the Project, including any amounts required to reimburse the Institution for advances made for any item otherwise constituting a Project Cost or for any other costs incurred and for work done which are properly chargeable to the Project; and

(x) all other costs and expenses relating to the completion of the Project or the issuance of a Series of Additional Bonds.

“Project Costs” shall not include (i) fees or commissions of real estate brokers, (ii) moving expenses, or (iii) operational costs.

Project Documents shall mean, collectively, the Institution Documents and the Security Documents.

Project Fee shall mean \$108,850.000, representing the \$113,850.00 Issuer’s financing fee, less the application fee of \$5,000.

Project Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Project Work shall mean (i) the design, construction and/or renovation of the Improvements, including the acquisition of building materials and fixtures, and (ii) the acquisition, whether by title or lease, of the Facility Personalty and any work required to install same.

Promissory Note shall mean, (i) with respect to the Initial Bonds, that certain Promissory Note in substantially the form of Exhibit H to this Agreement, (ii) with respect to any Series of Additional Bonds, that certain Promissory Note in substantially the form of any related Exhibit to an amendment to this Agreement, and (iii) with respect to the Bonds, collectively, those certain Promissory Notes described in clauses (i) and (ii) above, and shall include in each

case any and all amendments thereof and supplements thereto made in conformity with this Agreement and the Indenture.

Qualified Investments shall mean, to the extent permitted by applicable law, the following:

- (i) Government Obligations.
- (ii) Commercial paper, rated at least “P-1” by Moody’s or at least “A-1” by S&P, issued by a corporation or banking institution organized under the laws of the United States of America or any state thereof.
- (iii) Direct and general long-term obligations of any state of the United States of America to which the full faith and credit of the state is pledged and which are rated in either of the two highest rating categories by Moody’s or S&P.
- (iv) Direct and general short-term obligations of any state of the United States of America to which the full faith and credit of the state is pledged and which are rated in the highest rating category by Moody’s and S&P.
- (v) Interest bearing demand or time deposits with or certificates of deposit issued by a national banking association or a state bank or trust company which is a member of the Federal Deposit Insurance Corporation (“FDIC”) which are (a) continuously and fully insured by the FDIC, or (b) with a bank which has outstanding debt, or which is a subsidiary of a holding company which has outstanding debt, rated in either of the two highest rating categories by Moody’s and by S&P, or (c) continuously and fully secured by obligations of the type described in (i) and (ii) above which have a market value at all times at least equal to the principal amount of the deposit and which are held by the Trustee or its agent or, in the case of uncertificated securities, are registered in the name of the Trustee as pledgee.
- (vi) Repurchase agreements, the maturity of which are less than thirty (30) days, entered into (a) with a bank or trust company rated at least P-1 by Moody’s and A-1 by S&P and organized under the laws of the United States, (b) with a national banking association, insurance company, or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York and which is a member of the Security Investors Protection Corporation, in each case rated at least P-1 by Moody’s and A-1 by S&P, or (c) with a dealer which is rated at least P-1 by Moody’s and A-1 by S&P. The repurchase agreement must be continuously and fully secured by obligations of the type described in (i), (ii), (iii), (iv) or (v) above which have a fair market value, exclusive of accrued interest, at least equal to the amount invested in the repurchase agreement and which are held by the Trustee or its agent or, in the case of uncertificated securities, are registered in the name of the Trustee as pledgee; Money market mutual funds with assets in excess of \$2,000,000,000 investing in obligations of the type specified in (i), (ii), (iii), (iv), (v), or (vi) above, including funds for which the Trustee or an affiliate of the Trustee serves as investment advisor, administrator, shareholder, servicing agent and/or custodian or sub-custodian,

notwithstanding that (a) the Trustee charges and collects fees and expenses from such funds for services rendered, (b) the Trustee charges and collects fees and expenses for services rendered pursuant to the Indenture and (c) services performed for such funds and pursuant to the Indenture may converge at any time; and.

- (vii) An investment agreement or other investment arrangement with any bank, trust company, national banking association or bank holding company in the United States, with any domestic branch of a foreign bank, or with any surety or insurance company, provided, that, (i) such investment agreement or other investment arrangement shall permit the full principal amount of the moneys so placed together with the investment income agreed to be paid to be available for use as and when required under the Indenture, and (ii) the Person with whom such investment agreement or other investment arrangement is made must be a Person whose unsecured or uncollateralized short term debt obligations are assigned a rating by S&P of SP 1+ or better or a Person assigned a financial strength rating of AAA by S&P, and whose domestic assets shall be in excess of \$10,000,000,000.

Qualified Workforce Program has the meaning specified in Section 8.30(b).

Rating Agency shall mean any of S&P, Moody’s or Fitch and such other nationally recognized securities rating agency as shall have awarded a rating to the Initial Bonds.

Rebate Amount shall have the meaning assigned to that term in the Tax Regulatory Agreement.

Rebate Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Recapture Event shall have the meaning set forth in Section 5.1(a).

Recapture Period shall have the meaning set forth in Section 5.1(a).

Redemption Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01 of the Indenture.

Redemption Date shall mean the date fixed for redemption of Bonds subject to redemption in any notice of redemption given in accordance with the terms of the Indenture.

Redemption Price shall mean, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or the Indenture.

Renewal Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Repair and Replacement Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Repair and Replacement Fund Requirement shall mean an amount equal to \$100,000 to be funded in equal monthly installments over five (5) years from the Closing Date.

Revenue Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of the Indenture.

Requested Document Deliverables shall have the meaning set forth in Section 9.9(a).

Required Disclosure Statement shall mean that certain Required Disclosure Statement in the form of Exhibit F — “Form of Required Disclosure Statement”.

S&P shall mean Standard & Poor’s Financial Services LLC, a Delaware limited liability company which is a subsidiary of McGraw Hill Financial, Inc., a corporation organized and existing under the laws of the State, its successors and assigns, and if such limited liability company shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

Sales Taxes shall mean City and State sales and/or compensating use taxes imposed pursuant to Sections 1105, 1107, 1109 and 1110 of the New York State Tax Law, as each of the same may be amended from time to time (including any successor provisions to such statutory sections).

School shall mean Academic Leadership Charter School, a not-for-profit education corporation organized and existing under the laws of the State of New York and exempt from federal taxation pursuant to Section 501(c)(3) of the Code, and its successors and assigns.

School District shall mean any applicable school district, as referenced in Section 2856 of the Charter School Act, which is obligated to make payments to the School pursuant to the Charter School Act.

School Payments shall mean any and all made to or for the benefit of the School with respect to its operations at the Facility pursuant to the Charter School Act.

School Lease shall mean the Lease dated as of June 1, 2021, by and between the Institution and the School, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Securities Act shall mean the Securities Act of 1933, as amended, together with any rules and regulations promulgated thereunder.

Securities Depository shall mean any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in the Bonds, and to effect transfers of book-entry interests in the Bonds in book-entry form, and includes and means initially DTC.

Securities Exchange Act shall mean the Securities Exchange Act of 1934, as amended, together with any rules and regulations promulgated thereunder.

Security Documents shall mean, collectively, this Agreement, the Promissory Note, the Indenture, the Tax Regulatory Agreement, the Custody Agreement, the School Lease, the Building Loan Agreement, Mortgage and the Assignment of Mortgage and the Assignment of Contracts.

Series shall mean all of the Bonds designated as being of the same series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to the Indenture.

Sign shall have the meaning specified in Section 8.5.

Sinking Fund Installment shall mean an amount so designated and which is established for mandatory redemption on a date certain of the Bonds of any Series of Bonds pursuant to the Indenture. The portion of any such Sinking Fund Installment of a Series of Bonds remaining after the deduction of any amounts credited pursuant to the Indenture toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments of such Series of Bonds due on a future date.

Sinking Fund Installment Account shall mean the special trust account of the Bond Fund so designated, which is established pursuant to Section 5.01 of the Indenture.

SIR shall have the meaning set forth in Section 8.1(a).

Site Affiliates has the meaning specified in Section 8.30(b).

Site Employee has the meaning specified in Section 8.30(b).

Small Business Cap has the meaning specified in Section 8.30(b).

Short-Term Indebtedness means any Additional Indebtedness incurred, assumed or guaranteed by the School maturing not more than 365 days after it is incurred.

Specified Contract has the meaning specified in Section 8.30(b).

State shall mean the State of New York.

State Education Operating Aid shall mean all New York State Education Department operating aid payments appropriated for the purpose of funding operating expenses of the School with respect to its operations at the Facility on a per-pupil basis.

Successor Institution shall have the meaning specified in Section 8.20(b)(ii).

Supplemental Indenture shall mean any indenture supplemental to or amendatory of the Indenture, executed and delivered by the Issuer and the Trustee in accordance with Article XI of the Indenture.

Tax-Exempt Organization shall mean an Entity organized under the laws of the United States of America or any state thereof which is an organization described in Section 501(c)(3) of the Code and exempt from Federal income taxes under 501(a) of Code, or corresponding provisions of Federal income tax laws from time to time in effect.

Tax Regulatory Agreement shall mean the Tax Regulatory Agreement, dated the Closing Date, from the Issuer and the Institution to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Termination Date shall mean such date on which this Agreement may terminate pursuant to Article X.

Transfer shall have the meaning specified in Section 8.20(a)(iv).

Trustee shall mean The Bank of New York Mellon, New York, New York in its capacity as trustee under the Indenture, and its successors in such capacity and their assigns hereafter appointed in the manner provided in the Indenture.

Trust Estate shall mean all property, interests, revenues, funds, contracts, rights and other security granted to the Trustee under the Security Documents.

U/E shall have the meaning set forth in Section 8.1(a).

Underwriter shall mean Robert W. Baird & Co., as underwriter of the Initial Bonds.

Workers' Compensation shall have the meaning set forth in Section 8.1(a).

Section 1.2. Construction. In this Agreement, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Agreement, refer to this Agreement, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the Closing Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships and limited liability partnerships), trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(e) Unless the context indicates otherwise, references to designated "Exhibits", "Articles", "Sections", "Subsections", "clauses" and other subdivisions are to the designated Exhibits, Articles, Sections, Subsections, clauses and other subdivisions of or to this Agreement.

(f) The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation".

(g) The word "will" shall be construed to have the same meaning and effect as the word "shall".

(h) Any definition of or reference to any agreement, instrument or other document herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein or herein).

(i) Any reference to any Person, or to any Person in a specified capacity, shall be construed to include such Person's successors and assigns or such Person's successors in such capacity, as the case may be.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties by Issuer. The Issuer makes the following representations and warranties:

(a) The Issuer is a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State at the direction of the Mayor of the City, and is duly organized and validly existing under the laws of the State.

(b) Assuming the accuracy of representations made by the Institution, the Issuer is authorized and empowered to enter into the transactions contemplated by this Agreement and any other Project Documents to which the Issuer is a party and to carry out its obligations hereunder and thereunder and to issue and sell the Initial Bonds.

(c) By proper action of its board of directors, the Issuer has duly authorized the execution and delivery of this Agreement and each of the other Project Documents to which the Issuer is a party.

(d) In order to finance a portion of the cost of the Project, the Issuer proposes to issue the Initial Bonds in the Authorized Principal Amount. The Initial Bonds will mature, bear interest, be redeemable and have the other terms and provisions set forth in the Indenture.

(e) The Issuer is that not-for-profit local development corporation formed and existing on behalf of the City to act as a governmental issuer of tax-exempt and taxable bonds and notes for the purpose of providing financial assistance to not-for-profit institutions and manufacturing and industrial companies and other businesses.

(f) The Issuer has all requisite power, authority and legal right to execute and deliver the Project Documents to which it is a party and all other instruments and documents to be executed and delivered by the Issuer pursuant hereto and thereto and to perform its obligations under the Project Documents and all such other instruments and documents to which it is a party. All corporate action on the part of the Issuer which is required for the execution, delivery, performance and observance by the Issuer of the Project Documents and all such other instruments and documents to which it is a party has been duly authorized and effectively taken, and such execution, delivery, performance and observance by the Issuer do not contravene the Issuer's Organizational Documents or any applicable Legal Requirements or any contractual restriction binding on or affecting the Issuer.

(g) There is no action or proceeding before any court, governmental agency or arbitrator pending or, to the knowledge of the Issuer, threatened against the Issuer, which seeks (i) to restrain or enjoin the issuance or delivery of the Initial Bonds, the pledge and grant of the Trust Estate or the collection of any revenues pledged under the Indenture, (ii) to contest or affect in any way the authority for the issuance of the Initial Bonds or the validity of any of the Project Documents, or (iii) to contest in any way the existence or powers of the Issuer.

Section 2.2. Representations and Warranties by the Institution. The Institution makes the following representations and warranties:

(a) The Institution is a single member, limited liability company duly organized under the laws of the state set forth on the cover page of this Agreement, is validly existing and in good standing under the laws of its state of organization, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of its Organizational Documents, has the requisite power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement and each other Project Document to which it is or shall be a party. The School is a not-for-profit corporation duly organized under the laws of the State, is validly existing and in good standing under the laws of the State, is duly qualified to do business and in good standing under the laws of the State of New York, is not in violation of any provision of its Organizational Documents, has the requisite power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform each Project Document to which it is or shall be a party. The School is the sole member of the Institution.

(b) This Agreement and the other Project Documents to which the Institution is a party (x) have been duly authorized by all necessary action on the part of the Institution, (y) have been duly executed and delivered by the Institution, and (z) constitute the legal, valid and binding obligations of the Institution, enforceable against the Institution in accordance with their respective terms.

(c) The execution, delivery and performance of this Agreement and each other Project Document to which the Institution is or shall be a party and the consummation of the transactions herein and therein contemplated will not (x) violate any provision of law, any order of any court or agency of government, or any of the Organizational Documents of the Institution, or any indenture, agreement or other instrument to which the Institution is a party or by which it or any of its property is bound or to which it or any of its property is subject, (y) be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or (z) result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(d) There is no action or proceeding pending or, to the best of the Institution's knowledge, after diligent inquiry, threatened, by or against the Institution by or before any court or administrative agency that would adversely affect the ability of the Institution to perform its obligations under this Agreement or any other Project Document to which it is or shall be a party.

(e) The financial assistance provided by the Issuer to the Institution as contemplated by this Agreement is necessary to induce the Institution to proceed with the Project.

(f) Undertaking the Project is anticipated to serve the corporate public purposes of the Issuer by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State.

- (g) The Facility will be the Approved Facility.
- (h) Except as permitted by Section 8.9, no Person other than the Institution is or will be in use, occupancy or possession of any portion of the Facility.
- (i) The Institution has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the Closing Date in connection with the execution and delivery of this Agreement and each other Project Document to which it shall be a party or in connection with the performance of its obligations hereunder and under each of the Project Documents.
- (j) The Project will be designed, and the operation of the Facility will be, in compliance with all applicable Legal Requirements.
- (k) The Institution is in compliance, and will continue to comply, with all applicable Legal Requirements relating to the Project, the Project Work and the operation of the Facility.
- (l) The Institution has delivered to the Issuer a true, correct and complete copy of the Environmental Audit.
- (m) The Institution has not used Hazardous Materials on, from, or affecting the Facility in any manner that violates any applicable Legal Requirements governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and except as set forth in the Environmental Audit, to the best of the Institution's knowledge, no prior owner or occupant of the Facility has used Hazardous Materials on, from, or affecting the Facility in any manner that violates any applicable Legal Requirements.
- (n) The Project Cost Budget attached as Exhibit E — "Project Cost Budget" represents a true, correct and complete budget as of the Closing Date of the proposed costs of the Project; the Estimated Project Cost is a fair and accurate estimate of the Project Cost as of the Closing Date. Expenses for supervision by the officers or employees of the Institution and expenses for work done by such officers or employees in connection with the Project will be included as a Project Cost only to the extent that such Persons were specifically employed for such particular purpose, the expenses do not exceed the actual cost thereof and are to be treated on the books of the Institution as a capital expenditure in conformity with GAAP. Any costs incurred with respect to that part of the Project paid from the proceeds of the sale of the Initial Bonds shall be treated on the books of the Institution as capital expenditures in conformity with GAAP. The Institution represents and warrants that the Project Improvements Investment for the Project for purposes of the M/WBE Participation Plan is \$4,700,000.
- (o) The total cost of the Project Work being funded with the Initial Bonds is not less than the Authorized Principal Amount. That portion of the Estimated Project Cost as shall not derive from the proceeds of the Initial Bonds shall be provided from equity on the part of the Institution and from the School. The amounts provided to the Institution from the proceeds of the Initial Bonds, together with other moneys available to the Institution, are sufficient to pay all costs in connection with the completion of the Project.

- (p) All of the Land comprises four (4) complete tax lots and no portion of any single tax lot.
- (q) Subject to Section 3.5 and Article VI, no property constituting part of the Facility shall be located at any site other than at the Facility Realty.
- (r) The Completed Improvements Square Footage and the Land Square Footage are true and correct.
- (s) The Fiscal Year is true and correct.
- (t) None of the Institution, the Principals of the Institution, or any Person that is an Affiliate of the Institution:
 - (i) is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Issuer, the NYCIDA, the NYCEDC or the City, unless such default or breach has been waived in writing by the Issuer, the NYCIDA, the NYCEDC or the City, as the case may be;
 - (ii) has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;
 - (iii) has been convicted of a felony in the past ten (10) years;
 - (iv) has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or
 - (v) has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.
- (u) The Project Application Information was true, correct and complete as of the date submitted to the Issuer, and no event has occurred or failed to occur since such date of submission which would cause any of the Project Application Information to include any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make such statements not misleading.
- (v) The Principals of the Institution, and their respective titles to the Institution, as set forth in Exhibit D — "Principals of Institution", are true, correct and complete.
- (w) The representations, warranties, covenants and statements of expectation of the Institution set forth in the Tax Regulatory Agreement are by this reference incorporated in this Agreement as though fully set forth herein.
- (x) The property included in the Project is either property of the character subject to the allowance for depreciation under Section 167 of the Code, or land.

(y) No part of the proceeds of the Initial Bonds will be used to finance inventory or will be used for working capital, or will be used for any other property not constituting part of the Facility.

(z) The Institution has a leasehold interest in the Land and owns the Improvements and has no present intention to sell, directly or indirectly, in whole or in part, its interest in the Facility.

(aa) The Institution is in compliance with the provisions of the Code and any applicable regulations thereunder necessary to maintain its exempt status under Section 501(a) of the Code.

(bb) The School is exempt from Federal income taxes under Section 501(a) of the Code.

(cc) The School is an organization described in Section 501(c)(3) of the Code and has received the IRS Determination Letter. The facts and circumstances which form the basis of the IRS Determination Letter continue substantially to exist as represented to the Internal Revenue Service. The IRS Determination Letter has not been modified, limited or revoked, and the School is in compliance with all terms, conditions and limitations, if any, contained in or forming the basis of the IRS Determination Letter.

(dd) The School is not a “private foundation”, as defined in Section 509 of the Code.

(ee) The School is formed under the Education Law of the State of New York and is chartered by State University of New York Charter School Institute.

(ff) The School is in compliance with all of the terms and provisions of the Charter School Act, including, without limitation, all reporting requirements thereunder.

(gg) The School Lease is in full force and effect, and the Institution or the School have no knowledge of any breach or default on its part thereunder, if any, which, if uncured, might cause an “event of default” under the School Lease. The execution, delivery and performance of this Agreement or of any other Project Document by the Institution do not constitute a breach, default or violation of the terms of the School Lease. The current term of the School Lease will expire on June 15, 2036.

ARTICLE III

THE PROJECT; MAINTENANCE; REMOVAL OF PROPERTY AND TITLE INSURANCE

Section 3.1. Agreement to Undertake Project.

The Institution covenants and agrees to undertake and complete the Project Work in accordance with this Agreement, including, without limitation:

(i) effecting the Project Work,

(ii) making, executing, acknowledging and delivering any contracts, orders, receipts, writings and instructions with any other Persons, and in general doing all things which may be requisite or proper, all for the purposes of undertaking the Project Work,

(iii) paying all fees, costs and expenses incurred in the Project Work from funds made available therefor in accordance with or as contemplated by this Agreement and the Indenture, and

(iv) asking, demanding, suing for, levying, recovering and receiving all such sums of money, debts due and other demands whatsoever that may be due, owing and payable to the Institution under the terms of any contract, order, receipt or writing in connection with the Project Work and to enforce the provisions of any contract, agreement, obligation, bond or other performance security entered into or obtained in connection with the Project Work.

Section 3.2. Manner of Project Completion.

(a) The Institution will complete the Project Work, or cause the Project Work to be completed, by the Completion Deadline, in a first class workmanlike manner, free of defects in materials and workmanship (including latent defects); provided, however, the Institution may revise the scope of the Project Work, subject to the prior written consents of the Issuer and the Trustee (which consents shall not be unreasonably withheld, delayed or conditioned). The Institution will cause the Project Completion Date to occur by the Completion Deadline.

(b) In undertaking the Project Work, the Institution shall take such action and institute such proceedings as shall be necessary to cause and require all contractors, manufacturers and suppliers to complete their agreements relating to the Project Work in accordance with the terms of the contracts therefor including the correction of any defective work. Upon request, the Institution will extend to the Issuer or the Trustee all vendors' warranties received by the Institution in connection with the Project, including any warranties given by contractors, manufacturers or service organizations who perform Project Work.

(c) Project Costs shall be paid from the Project Fund or other funds provided by the Institution. In the event that moneys in the Project Fund are not sufficient to pay the costs

necessary to complete the Project in full, the Institution shall pay that portion of such costs of the Project as may be in excess of the moneys therefor in the Project Fund and shall not be entitled to any reimbursement therefor from the Issuer, the Trustee or the Holders of any of the Bonds (except from the proceeds of Additional Bonds which may be issued for that purpose), nor shall the Institution be entitled to any diminution of the loan payments payable or other payments to be made under this Agreement, under the Promissory Note or under any other Project Document. All expenses incurred by the Institution or the Issuer in connection with the performance of its obligations under this Section 3.2(c) shall be considered a Project Cost. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing, after deduction of expenses incurred in such recovery, if recovered prior to the date of completion of the Project, shall be deposited into the Project Fund and made available for payment of Project Costs, or if recovered after such date of completion, be deposited in the Redemption Account of the Bond Fund.

(d) The Institution shall pay all costs, charges, fees, expenses or claims incurred in connection with the Project Work.

(e) The Institution will perform or cause to be performed the Project Work in accordance with all applicable Legal Requirements and with the conditions and requirements of all policies of insurance with respect to the Facility and the Project Work. Promptly upon finishing of the Project Work and the completion of the Improvements, the Institution will obtain or cause to be obtained all required permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the occupancy, operation and use of the Facility as an Approved Facility and shall furnish copies of same to the Trustee immediately upon the receipt thereof and to the Issuer immediately upon demand therefor.

(f) Upon completion of the Project Work, the Institution shall (y) deliver to the Issuer the Final Project Cost Budget, which budget will include a comparison with the Project Cost Budget, and indicate the source of funds (i.e., Bond proceeds, equity, etc.) for each cost item, and (z) evidence the completion of the Project and the occurrence of the Project Completion Date by delivering to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution in substantially the form set forth in Exhibit G – “Form of Project Completion Certificate”, together with all attachments required thereunder.

(g) Upon request by the Issuer or the Trustee, the Institution shall make available to the Issuer and the Trustee copies of any bills, invoices or other evidences of costs as shall have been incurred in the effectuation of the Project Work.

(h) In the event that the aggregate costs of the Project Work upon the completion thereof shall be significantly different from the estimated costs thereof set forth in the Project Cost Budget (i.e., more than a ten percent (10%) difference in either total Project costs or in major categories of Project Work cost), on request of the Issuer, the Institution shall provide evidence to the reasonable satisfaction of the Issuer as to the reason for such discrepancy, and that the scope of the Project Work as originally approved by the Issuer has not been modified in a material manner without the prior written consent of the Issuer.

(i) The Institution covenants to invest or cause the investment of at least \$4,700,000 as its Project Improvements Investment for purposes of its M/WBE Participation Plan.

Section 3.3. Maintenance. (a) During the term of this Agreement, the Institution will:

(i) keep the Facility in good and safe operating order and condition, ordinary wear and tear excepted,

(ii) occupy, use and operate the Facility, or cause the Facility to be occupied, used and operated, as the Approved Facility, and

(iii) make or cause to be made all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) necessary to ensure that (x) the interest on the Bonds shall not cease to be excludable from gross income for federal income tax purposes, (y) the operations of the Institution at the Facility shall not be materially impaired or diminished in any way, and (z) the security for the Bonds shall not be materially impaired.

(b) All replacements, renewals and repairs shall be similar in quality, class and value to the original work and be made and installed in compliance with all applicable Legal Requirements.

(c) The Issuer shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility, and the Institution hereby agrees to assume full responsibility therefor.

Section 3.4. Alterations and Improvements.

(a) The Institution shall have the privilege of making such alterations of or additions to the Facility Realty (“**Additional Improvements**”) or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that:

(i) as a result of the Additional Improvements, the fair market value of the Facility is not reduced below its fair market value immediately before the Additional Improvements are made and the usefulness, structural integrity or operating efficiency of the Facility is not materially impaired,

(ii) the Additional Improvements are effected with due diligence, in a good and workmanlike manner and in compliance with all applicable Legal Requirements,

(iii) the Additional Improvements are promptly and fully paid for by the Institution in accordance with the terms of the applicable contract(s) therefor, and

(iv) the Additional Improvements do not change the nature of the Facility so that it would not constitute the Approved Facility.

(b) All Additional Improvements shall constitute a part of the Facility, subject to this Agreement and the Mortgage.

(c) If at any time after the Operations Commencement Date, the Institution shall make any Additional Improvements, the Institution shall notify an Authorized Representative of the Issuer of such Additional Improvements by delivering written notice thereof within thirty (30) days after the completion of the Additional Improvements.

(d) In addition to the Facility Personalty, the Institution shall have the right to install or permit to be installed at the Facility Realty, machinery, equipment and other personal property at the Institution's own cost and expense (the "**Institution's Property**"). Once so installed, the Institution's Property shall not constitute part of the Facility Personalty and shall not be subject to this Agreement, nor constitute part of the Facility, or subject to the lien and security interest of the Mortgage, provided that the same is not made fixtures appurtenant to the Facility Realty. The Institution shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Institution's Property, without the consent of or notice to the Issuer or the Trustee.

Section 3.5. Removal of Property of the Facility.

(a) The Institution shall have the right from time to time to remove from that property constituting part of the Facility any fixture constituting part of the Facility Realty or any machinery, equipment or other item of personal property constituting part of the Facility Personalty (in any such case, the "**Existing Facility Property**") and thereby removing such Existing Facility Property from that property constituting part of the Facility and the lien and security interest of the Mortgage, provided, however:

(i) such Existing Facility Property is substituted or replaced by property (y) having equal or greater fair market value, operating efficiency and utility and (z) free of all mortgages, liens, charges, encumbrances, claims and security interests other than Permitted Encumbrances, or

(ii) if such Existing Facility Property is not to be substituted or replaced by other property but is instead to be sold, scrapped, traded-in or otherwise disposed of in an arms'-length bona fide transaction for consideration, the Institution shall pay to the Trustee for deposit in the Redemption Account of the Bond Fund and thereby cause a redemption of Bonds to be effected in an amount (to the nearest integral multiple of Authorized Denomination) equal to the amounts derived from such sale or scrapping, the trade-in value credit received or the proceeds received from such other disposition; provided that no such redemption shall be required when such amount received in connection with any removal or series of removals does not exceed, in the aggregate, \$25,000.

No such removal set forth in paragraph (i) or (ii) above shall be effected if (v) such removal would cause the interest on the Bonds to cease to be excludable from gross income for federal income tax purposes, (w) such removal would change the nature of the Facility as the Approved Facility, (x) such removal would materially impair the usefulness, structural integrity or operating efficiency of the Facility, (y) such removal would materially reduce the fair market value of the Facility below its fair market value immediately before such removal (except by the amount by which the Bonds are to be redeemed as provided in paragraph (ii) above), or (z) there shall exist and be continuing an Event of Default hereunder. Any amounts received pursuant to paragraph (ii) above in connection with any removal or series of removals, which are not in excess of \$25,000, shall be retained by the Institution.

(b) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 3.5(a) shall not entitle the Institution to any abatement or reduction in the loan payments and other amounts payable by the Institution under this Agreement, under the Promissory Note or under any other Project Document.

Section 3.6. Implementation of Additional Improvements and Removals.

(a) In the event of any Additional Improvements or substitution or replacement of property pursuant to Section 3.4 or 3.5, the Institution shall deliver or cause to be delivered to the Issuer and the Trustee any necessary documents in order to subject such Additional Improvements or substitute or replacement property to the lien and security interest of the Mortgage (in each case to the extent such Additional Improvements or substitute or replacement property relates to the Mortgaged Property) and to cause all of same to be made part of the Facility.

(b) The Institution agrees to pay all costs and expenses (including reasonable counsel fees) in subjecting, in accordance with Section 3.4, Additional Improvements to, or releasing, in accordance with Section 3.5, Existing Facility Property from the lien and security interest of the Mortgage.

(c) The Institution agrees, upon request of the Issuer or the Trustee, to furnish to the Issuer and the Trustee with a certificate of an Authorized Representative of the Institution indicating whether or not the Institution has taken any action to (i) effect Additional Improvements in compliance with Section 3.4 and (ii) effect the removal of Existing Facility Property in compliance with Section 3.5(a), pursuant to Sections 8.15(d) and (e), respectively.

Section 3.7. Title Insurance. On or prior to the Closing Date, the Institution will obtain and deliver (w) to the Issuer a title report (in form and substance acceptable to the Issuer) reflecting all matters of record with respect to the Land and existing Improvements, (x) to the Issuer a full set of municipal department search results showing only Permitted Encumbrances, (y) to the Trustee a mortgagee title insurance policy in an amount not less than the Authorized Principal Amount of the Initial Bonds, insuring the Trustee's interest under the Mortgage as a holder of a mortgage lien on the Mortgaged Property, subject only to Permitted Encumbrances, and (z) a current or updated survey of each of the Land and the Improvements constituting part of the Mortgaged Property, certified to the Trustee, the Issuer and the title company issuing such title insurance policy. The title insurance policy shall be subject only to

Permitted Encumbrances and shall provide for, among other things, the following: (1) full coverage against mechanics' liens; (2) no exceptions other than those approved by the Trustee; (3) an undertaking by the title insurer to provide the notice of title continuation or endorsement; and (4) such other matters as the Trustee shall request. Any proceeds of such mortgagee title insurance shall be paid to the Trustee for deposit in the Renewal Fund and applied to remedy the applicable defect in title in respect of which such proceeds shall be derived (including the reimbursement to the Institution for any costs incurred by the Institution in remedying such defect in title). If not so capable of being applied or if a balance remains after such application, the amounts in the Renewal Fund shall be transferred by the Trustee to the Redemption Account of the Bond Fund and used to redeem an equivalent principal amount of the Initial Bonds to the nearest integral multiple of Authorized Denominations.

Section 3.8. No Warranty of Condition or Suitability. THE ISSUER HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE INSTITUTION OR THE EXTENT TO WHICH PROCEEDS DERIVED FROM THE SALE OF THE BONDS WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. THE INSTITUTION ACKNOWLEDGES THAT THE ISSUER IS NOT THE MANUFACTURER OF THE FACILITY PERSONALTY NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE INSTITUTION IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE INSTITUTION. THE ISSUER SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE INSTITUTION OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

ARTICLE IV

LOAN; PAYMENT PROVISIONS

Section 4.1. Loan of Proceeds. The Issuer agrees, upon the terms and conditions contained in this Agreement and the Indenture, to loan the proceeds from the sale of the Initial Bonds to the Institution (the "**Loan**"). The Loan shall be made by depositing on the Closing Date the proceeds from the sale of the Initial Bonds into the Project Fund in accordance with Section 4.01 of the Indenture. Such proceeds shall be disbursed to or on behalf of the Institution as provided in Section 3.2(c) and Section 5.02 of the Indenture.

Section 4.2. Promissory Note. The Institution's obligation to repay the Loan shall be evidenced by this Agreement and the Promissory Note. On the Closing Date, the Institution shall execute and deliver the Promissory Note payable to the Issuer, and the Issuer will endorse the Promissory Note to the Trustee. The Institution acknowledges that the original principal amount payable under the Promissory Note may be more or less than the original principal amount of the Loan if the Initial Bonds are sold at a discount or at a premium, respectively, and agrees that repayment of the Loan and the Promissory Note will be made in accordance with Section 4.3.

Section 4.3. Loan Payments; Pledge of this Agreement and of the Promissory Note.

(a) The Institution covenants to pay the Promissory Note and repay the Loan made pursuant to this Agreement by making loan payments which the Issuer agrees shall be paid in immediately available funds by the Institution directly to the Trustee on each Loan Payment Date (except as provided in Section 4.3(a)(ii), (iv), (v) and (vi) below which shall be paid on the respective due dates thereof) for deposit in the Bond Fund (except to the extent that amounts are on deposit in the Bond Fund and available therefor) in an amount equal to the sum of:

(i) with respect to interest due and payable on the Initial Bonds, an amount equal to the quotient obtained by dividing the amount of interest on the Initial Bonds Outstanding payable on the first Interest Payment Date (after taking into account any amount on deposit in the subaccounts of the Interest Account of the Bond Fund, if any, and as shall be available to pay interest on the Initial Bonds on the first Interest Payment Date) by the number of Loan Payment Dates between the Closing Date and the first Interest Payment Date, and thereafter in an amount equal to one-third (1/3) of the amount of interest which will become due and payable on the Initial Bonds on the next succeeding Interest Payment Date (after taking into account any amounts on deposit in the subaccounts of the Interest Account of the Bond Fund, if any, and as shall be available to pay interest on the Initial Bonds on such next succeeding Interest Payment Date); provided that in any event the aggregate amount so paid with respect to interest on the Initial Bonds on or before the Loan Payment Date immediately preceding an Interest Payment Date shall be an amount sufficient to pay the interest next becoming due on the Initial Bonds on such immediately succeeding Interest Payment Date;

(ii) with respect to principal due on the Initial Bonds (other than such principal amount as shall become due as a mandatory Sinking Fund Installment payment), commencing on that Loan Payment Date as shall precede the first principal payment date by six (6) Loan Payment Dates, an amount equal to one-sixth (1/6) of the amount of the principal of the Bonds Outstanding becoming due (other than by reason of mandatory Sinking Fund Installments); provided that in any event the aggregate amount so paid with respect to principal on the Initial Bonds on or before the Loan Payment Date immediately preceding a principal payment date of the Initial Bonds shall be an amount sufficient to pay the principal of the Initial Bonds Outstanding becoming due on such next succeeding principal payment date of the Initial Bonds; provided further that in the event of the acceleration of the principal of the Initial Bonds, a loan payment in the amount of the principal amount of the Initial Bonds Outstanding (together with all interest accrued thereon to the date of payment), shall be due and payable on such date of acceleration;

(iii) with respect to Sinking Fund Installment payments due on the Initial Bonds, commencing on that Loan Payment Date as shall precede the first Sinking Fund Installment payment date by six (6) Loan Payment Dates, an amount equal to one-sixth (1/6) of the amount of the Sinking Fund Installment on the Initial Bonds; provided that in any event the aggregate amount so paid with respect to Sinking Fund Installments on the Initial Bonds on or before the Loan Payment Date immediately preceding a Sinking Fund Installment payment date of the Initial Bonds shall be an amount sufficient to pay the Sinking Fund Installment of the Initial Bonds Outstanding becoming due on such next succeeding Sinking Fund Installment payment date;

(iv) on each redemption date, with respect to the Redemption Price (other than by Sinking Fund Installments) due and payable on the Initial Bonds, whether as an optional or mandatory redemption, an amount equal to the Redemption Price together with accrued interest on the Initial Bonds being redeemed on such redemption date;

(v) with respect to interest due and payable on the Initial Bonds, the Institution shall further pay such additional amounts as set forth in the Indenture in the event of the occurrence of a Determination of Taxability with respect to the Initial Bonds or an Event of Default under the Indenture;

(vi) upon receipt by the Institution of notice from the Trustee pursuant to Section 5.14(b) of the Indenture that the amount on deposit in the Debt Service Reserve Fund shall be less than the Debt Service Reserve Fund Requirement, the Institution shall pay to the Trustee for deposit in the Debt Service Reserve Fund on the first day of the month immediately following the receipt by the Institution of notice of such deficiency, and on the first day of each of the five (5) succeeding months, or over such longer time period as shall be consented to in writing by the Majority Holders, an amount equal to one sixth (1/6th) of such deficiency in the Debt Service Reserve Fund; and

(vii) to the extent funds are available in the Revenue Fund, an amount equal to the Repair and Replacement Fund Deposit for deposit to the Repair and Replacement Fund.

The Issuer hereby acknowledges that the above payments may be made by the application by the Trustee of amounts in the Revenue Fund pursuant to Section 5.03 of the Indenture, and the Institution shall receive credit hereunder for any such transfers made by the Trustee.

(b) In the event the Institution should fail to make or cause to be made any of the payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Institution until the amount not so paid shall have been fully paid.

(c) The Institution has the option to make advance loan payments for deposit in the respective subaccounts of the accounts of the Bond Fund to effect the retirement, defeasance or redemption of the Bonds in whole or in part, all in accordance with the terms of the Indenture and the Code (with respect to Code provisions regarding prohibitions on advance refundings or refunding or defeasance transactions accomplished by setting aside, whether in escrow or a special reserve, loan payment amounts for a period in excess of ninety (90) days from a scheduled payment date or contracted redemption date for the Bonds being refunded, repaid or defeased (such authorized refundings within ninety (90) days of the scheduled payment date or contracted redemption date for the Bonds being refunded, repaid or defeased being referred to herein as a “**current refunding**”). The Institution shall exercise its option to make such current refunding loan payments by delivering a written notice of an Authorized Representative of the Institution to the Trustee in accordance with the Indenture, with a copy to the Issuer, setting forth (i) the amount of the current refunding loan payment, (ii) the principal amount of Bonds Outstanding requested to be redeemed with such current refunding loan payment (which principal amount shall be in such minimum amount or integral Authorized Denomination as shall be permitted in the Indenture), and (iii) the date on which such principal amount of Bonds are to be redeemed (which date shall be not earlier than forty-five (45) days after the date of such notice). In the event the Institution shall exercise its option to make current refunding loan payments to effect the redemption in whole of the Bonds, and such redemption is expressly permitted under the Indenture as a result of the damage, destruction or condemnation of the Facility, or changes in law, or executive or judicial action, the Institution shall further deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution stating that, as a result of the occurrence of the event giving rise to such redemption, the Institution has discontinued, or at the earliest practicable date will discontinue, its operation of the Facility for its intended purposes. Such current refunding loan payment shall be paid to the Trustee in legal tender, for deposit in the respective subaccounts of the Redemption.

(d) In the event Defaulted Interest (as defined in Section 2.02(f) of the Indenture) shall become due on any Initial Bond, the Institution shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on such Initial Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with Section 2.02(f) of the Indenture), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted

Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment.

(e) No further loan payments need be made to the Issuer on account of the Bonds when and so long as the amount of cash and/or Defeasance Obligations on deposit in the Bond Fund is sufficient to satisfy and discharge the obligations of the Issuer under the Indenture and pay the Bonds as provided in Article X of the Indenture.

(f) Any amounts remaining in the Revenue Fund, the Repair and Replacement Fund, the Earnings Fund, the Rebate Fund, the Bond Fund, the Debt Service Reserve Fund, the Project Fund or the Renewal Fund after payment in full of (w) the Bonds (in accordance with Article X of the Indenture), (x) the fees, charges and expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents in accordance with the Indenture, (y) all amounts required to be rebated to the federal government pursuant to the Tax Regulatory Agreement or the Indenture, and (z) all amounts required to be paid under any Project Document, shall have been so paid, shall belong to and be paid to the Institution by the Trustee as overpayment of the loan payments.

(g) In the event that the Institution fails to make any loan payment required in this Section 4.3, the installment so in default shall continue as an obligation of the Institution until the amount in default shall have been fully paid.

(h) Notwithstanding anything in the foregoing to the contrary, if the amount on deposit and available in the Bond Fund is not sufficient to pay the principal of, Sinking Fund Installments for, redemption premium, if any, and interest on the Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided in the Indenture), the Institution shall forthwith pay the amount of such deficiency in immediately available funds to the Trustee for deposit in the Bond Fund.

(i) The Institution shall pay, or caused to be paid, to the Trustee on each Loan Payment Date, following the Project Completion Date, for deposit into the Revenue Fund for deposit into the Repair and Replacement Fund the amount required for such Loan Payment Date pursuant to clause FOURTH of Section 5.17 of the Indenture. In addition, upon receipt by the Institution of notice from the Trustee pursuant to Section 5.010(g) of the Indenture that the amount on deposit in the Repair and Replacement Fund shall be less than the Repair and Replacement Fund Requirement, the Institution shall pay, or caused to be paid, to the Trustee for deposit in the Repair and Replacement Fund on the Loan Payment Date immediately following the receipt by the Institution of notice of such deficiency, and on each of the five (5) succeeding Loan Payment Dates, or over such longer time period as shall be consented to in writing by the Majority Holders, an amount equal to one-sixth (1/6) of such original deficiency in the Repair and Replacement Fund.

(j) In order to satisfy its obligations under Section 4.3(a), the School entered into the Custody Agreement, pursuant to which the Trustee will receive moneys in accordance with the provisions of the Indenture to the extent and at the times necessary to pay the principal or Redemption Price of, Sinking Fund Installments for, Purchase Price and interest on the Initial Bonds when due (whether at maturity or by redemption or acceleration or otherwise as provided

in the Indenture). Any such payment received by the Trustee pursuant to the Custody Agreement shall be deemed to satisfy the corresponding payment obligation of the Institution hereunder to the extent of such payment.

Section 4.4. Loan Payments and Other Payments Payable Absolutely Net.

The obligation of the Institution to pay the loan payments and other payments under this Agreement and under the Promissory Note shall be absolutely net to the Issuer and to the Trustee without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement and the Promissory Note shall yield, net, to the Issuer and to the Trustee, the loan payments and other payments provided for herein, and all costs, expenses and charges of any kind and nature relating to the Facility, arising or becoming due and payable under this Agreement, shall be paid by the Institution and the Indemnified Parties shall be indemnified by the Institution for, and the Institution shall hold the Indemnified Parties harmless from, any such costs, expenses and charges.

Section 4.5. Nature of Institution's Obligation Unconditional.

The Institution's obligation under this Agreement and under the Promissory Note to pay the loan payments and all other payments provided for in this Agreement and in the Promissory Note shall be absolute, unconditional and a general obligation of the Institution, irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Issuer, the Trustee or the Holder of any Bond and the obligation of the Institution shall arise whether or not the Project has been completed as provided in this Agreement and whether or not any provider of a credit facility or liquidity facility with respect to the Bonds shall be honoring its obligations thereunder. The Institution will not suspend or discontinue any such payment or terminate this Agreement (other than such termination as is provided for hereunder), or suspend the performance or observance of any covenant or agreement required on the part of the Institution hereunder, for any cause whatsoever, and the Institution waives all rights now or hereafter conferred by statute or otherwise to quit, terminate, cancel or surrender this Agreement or any obligation of the Institution under this Agreement except as provided in this Agreement or to any abatement, suspension, deferment, diminution or reduction in the loan payments or other payments hereunder or under the Promissory Note.

All covenants and obligations of the Institution or the School under this Agreement shall be enforceable against or performed by either the Institution or the School.

Section 4.6. Advances by the Issuer or the Trustee.

In the event the Institution fails to make any payment or to perform or to observe any obligation required of it under this Agreement, under the Promissory Note or under any other Security Document, the Issuer or the Trustee, after first notifying the Institution in writing of any such failure on its part (except that no prior notification of the Institution shall be required in the event of an emergency condition that, in the reasonable judgment of the Issuer or the Trustee, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Issuer or the Trustee under this Agreement or any other Security Document to which the Issuer or the Trustee is a party, make such payment or otherwise cure any failure by the Institution to perform and to observe its other obligations hereunder or thereunder. All amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of the Institution to the Issuer

or the Trustee, as the case may be, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum, compounded daily, from the date advanced, the Institution will pay upon demand therefor by the Issuer or the Trustee, as applicable. Any remedy vested in the Issuer or the Trustee herein or in any other Security Document for the collection of the loan payments or other payments or other amounts due hereunder, under the Promissory Note or under any other Security Document shall also be available to the Issuer or the Trustee for the collection of all such amounts so advanced. No advance shall be made by the Trustee except as specified in the Indenture.

ARTICLE V

RECAPTURE OF BENEFITS

Section 5.1. Recapture of Benefits. It is understood and agreed by the parties to this Agreement that the Issuer is entering into this Agreement in order to provide financial assistance to the Institution for the Project and to accomplish its corporate public purposes. In consideration therefor, the Institution hereby agrees as follows:

(a) The following capitalized terms shall have the respective meanings specified below:

Benefits shall mean the exemption from any applicable mortgage recording taxes, and filing and recording fees.

Operations Commencement Date shall mean the date by which the Issuer shall have received a signed certificate of an Authorized Representative of the Institution certifying that the Project Completion Date has occurred and that the Facility is in fact being occupied, used and operated for the Approved Project Operations.

Recapture Event shall mean any one of the following events:

(i) The Institution shall have failed to cause the Project Completion Date to occur by the Completion Deadline.

(ii) Except as permitted by written consent of the Issuer pursuant to and in accordance with Section 8.20, the Institution shall have liquidated all or substantially all of its operating assets or shall have ceased all or substantially all of its operations.

(iii) The Institution shall have transferred all or substantially all of its employees to a location outside of the City.

(iv) The Facility has ceased to be the Approved Facility and/or the Institution shall have substantially changed the scope and nature of its operations at the Facility Realty.

(v) Except as permitted by written consent of the Issuer pursuant to and in accordance with Section 8.20, the Institution shall have sold, leased (except pursuant to the School Lease or otherwise disposed of all or substantially all of the Facility Realty.

(vi) The Institution shall have subleased all or part of the Facility Realty in violation of Section 8.9.

(vii) The Institution shall have relocated all or substantially all of its operations at the Facility Realty to another site; provided, however, and notwithstanding the foregoing, such relocation shall not be a Recapture Event if (A) the Institution has

relocated its operations at the Facility Realty and at least 90% of its employees employed at the Facility Realty prior to the relocation, to another site within the City, (B) the Institution maintains, for the remaining balance of the Recapture Period, an employment level equal to at least 90% of the number of employees employed by the Institution at the Facility Realty prior to relocation, and (C) the Institution shall satisfy such other additional conditions as the Issuer may from time to time impose provided such additional conditions are reasonable and uniformly imposed, at the time, to other similar transactions under similar circumstances. There shall arise another Recapture Event upon the failure of the Institution to satisfy continuously the foregoing requirements for the remaining balance of the Recapture Period. Upon the occurrence of such subsequent Recapture Event, the Issuer shall have the right to demand payment of all amounts due under Section 5.1(b) or (c), and the calculation of interest pursuant to Section 5.1(c)(iii) shall assume that the subsequent Recapture Event replaces the original Recapture Event for purposes of that computation. The determination of the pre-relocation, 90%-employment level shall be done in a manner, and in respect of a date or period of time, that the Issuer deems appropriate in its sole discretion.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event:

(A) shall have arisen as a direct, immediate result of (x) force majeure as defined in Section 12.1, (y) a taking or condemnation by governmental authority of all or substantially all of the Facility Realty, or (z) the inability at law of the Institution to rebuild, repair, restore or replace the Facility Realty after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Institution or any Affiliate, or

(B) is deemed, in the sole discretion of the Issuer, to be (x) as necessitated by law, (y) minor in nature, or (z) a cause of undue hardship to the Institution were the Issuer to recapture any Benefits.

Recapture Period shall mean the period of time commencing on the Closing Date and expiring on the date which is the tenth anniversary of the Operations Commencement Date.

(b) If there shall occur a Recapture Event during the Recapture Period, but such Recapture Event is prior to the Operations Commencement Date, the Institution shall pay to the Issuer as a return of financial assistance conferred by the Issuer, the following amounts upon demand by the Issuer: (i) all Benefits; and (ii) interest described in Section 5.1(c)(iii).

(c) If there shall occur a Recapture Event during the Recapture Period, but such Recapture Event occurs after the Operations Commencement Date, the Institution shall pay to the Issuer as a return of financial assistance conferred by the Issuer, the following amounts (as applicable) upon demand by the Issuer:

(i) If the Recapture Event occurs within the first six (6) years after the Operations Commencement Date, one hundred percent (100%) of the Benefits.

(ii) If the Recapture Event occurs within any month during any one of the seventh, eighth, ninth or tenth years after the Operations Commencement Date, X percent of the Benefits (where "X" is a percent equal to 100% less Y, and where "Y" equals the product of 1.666% and the number of months elapsed commencing with the first month of the seventh year through and including the month in which the Recapture Event occurs).

(iii) The principal of the Benefits to be recaptured, whether pursuant to clause (i) or (ii) above, shall bear interest at a rate equal to the lesser of (x) the maximum amount of interest permitted by law, and (y) the statutory judgment rate, compounded daily, commencing from the date that any amount of Benefit principal has accrued to the Institution, through and including the date such principal is repaid in full; such that Benefit principal comprising the dollar amount of the exemption from mortgage recording taxes, and filing and recording fees, shall be deemed to have accrued to the Institution on the Closing Date. The "statutory judgment rate" shall be the statutory judgment rate in effect on the date of the Issuer's demand.

For purposes of this Section 5.3, demand for payment by the Issuer shall be made in accordance with the notice requirements of this Agreement and the due date for payment shall be not less than seven (7) Business Days from the date of the notice.

(d) The Institution shall furnish the Issuer with written notification of any Recapture Event within ten (10) days of its occurrence and shall subsequently provide to the Issuer in writing any additional information that the Issuer may request.

(e) The provisions of this Section 5.1 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

ARTICLE VI

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 6.1. Damage, Destruction and Condemnation. In the event that the whole or part of the Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement to which the Institution and those authorized to exercise such right are parties, or if the temporary use of the Facility shall be so taken by condemnation or agreement (a “**Loss Event**”):

(i) the Issuer shall have no obligation to rebuild, replace, repair or restore the Facility or to advance funds therefor,

(ii) there shall be no abatement, postponement or reduction in the loan payments or other amounts payable by the Institution under this Agreement or the Promissory Note or any other Security Document to which it is a party, and the Institution hereby waives, to the extent permitted by law, any provisions of law which would permit the Institution to terminate this Agreement, the Promissory Note or any other Security Document, or eliminate or reduce its payments hereunder, under the Promissory Note or under any other Security Document, and

(iii) the Institution will promptly give written notice of such Loss Event to the Issuer and the Trustee, generally describing the nature and extent thereof.

Section 6.2. Loss Proceeds.

(a) The Issuer, the Trustee and the Institution shall cooperate and consult with each other in all matters pertaining to the settlement, compromise, arbitration or adjustment of any claim or demand on account of any Loss Event, and the settlement, compromise, arbitration or adjustment of any such claim or demand shall, as between the Issuer and the Institution, be subject to the written approval of the Institution and the Trustee (such approvals not to be unreasonably withheld).

(b) The Net Proceeds with respect to the Facility shall be paid to the Trustee and deposited in the Renewal Fund (except as provided in Section 3.11(d) of the Mortgage in respect of property insurance proceeds that are less than a threshold amount). Pending the disbursement or transfer thereof, the Net Proceeds in the Renewal Fund shall be applied, and may be invested, as provided in the Indenture. The Institution shall be entitled to the Net Proceeds of any insurance proceeds or condemnation award, compensation or damages attributable to the Institution's Property.

Section 6.3. Election to Rebuild or Terminate.

(a) In the event a Loss Event shall occur, the Institution shall either:

(i) at its own cost and expense (except to the extent paid from the Net Proceeds), within one (1) year of the Loss Event, promptly and diligently rebuild, replace, repair or restore the Facility to substantially its condition immediately prior to

the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, regardless of whether or not the Net Proceeds derived from the Loss Event shall be sufficient to pay the cost thereof, and the Institution shall not by reason of payment of any such excess costs be entitled to any reimbursement from the Issuer, the Trustee or any Bondholder, nor shall the loan payments or other amounts payable by the Institution under this Agreement or the Promissory Note or any other Security Document be abated, postponed or reduced, or

(ii) if, to the extent and upon the conditions permitted to do so under Sections 10.1 and 10.2 and under the Indenture, exercise its option to terminate this Agreement and cause the Bonds to be redeemed in whole;

provided that if all or substantially all of the Facility shall be taken or condemned, or if the taking or condemnation renders the Facility unsuitable for use by the Institution as contemplated hereby, the Institution shall exercise its option to terminate this Agreement pursuant to Sections 10.1 and 10.2.

Not later than ninety (90) days after the occurrence of a Loss Event, the Institution shall advise the Issuer and the Trustee in writing of the action to be taken by the Institution under this Section 6.3(a), a failure to so timely notify being deemed an election in favor of Section 6.3(a)(ii) to be exercised in accordance with the provisions of Section 6.3(a)(ii).

(b) If the Institution shall elect to or shall otherwise be required to rebuild, replace, repair or restore the Facility as set forth in Section 6.3(a)(i), the Trustee shall disburse the Net Proceeds from the Renewal Fund in the manner set forth in Section 5.03 of the Indenture to pay or reimburse the Institution, at the election of the Institution, either as such work progresses or upon the completion thereof, provided, however, the amounts so disbursed by the Trustee to the Institution shall not exceed the actual cost of such work. If the Institution shall exercise its option in Section 6.3(a)(ii), the amount of the Net Proceeds so recovered shall be transferred from the Renewal Fund and deposited in the Redemption Account of the Bond Fund, and the Institution shall thereupon pay to the Trustee for deposit in the Redemption Account of the Bond Fund an amount which, when added to any amounts then in the Bond Fund and available for that purpose, shall be sufficient to retire and redeem the Bonds in whole at the earliest possible date (including, without limitation, principal and interest to the maturity or redemption date and redemption premium, if any), and shall pay the expenses of redemption, the fees and expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents, together with all other amounts due under the Indenture, under this Agreement and under each other Security Document, as well as any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement and such amount so deposited shall be applied, together with such other available amounts in the Bond Fund, if applicable, to such redemption or retirement of the Bonds on said redemption or Maturity Date.

Section 6.4. Effect of Election to Build.

(a) All rebuilding, replacements, repairs or restorations of the Facility in respect of or occasioned by a Loss Event shall:

(i) automatically be deemed a part of the Facility under this Agreement and, with respect to Mortgaged Property, shall be subject to the lien and security interest of the Mortgage,

(ii) be effected only if the Institution shall deliver to the Issuer and the Trustee a certificate from an Authorized Representative of the Institution acceptable to the Issuer and the Trustee to the effect that such rebuilding, replacement, repair or restoration shall not change the nature of the Facility as the Approved Facility,

(iii) be effected with due diligence in a good and workmanlike manner, in compliance with all applicable Legal Requirements and be promptly and fully paid for by the Institution in accordance with the terms of the applicable contract(s) therefor,

(iv) restore the Facility to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, and to a state and condition that will permit the Institution to use and operate the Facility as the Approved Facility,

(v) be effected only if the Institution shall have complied with Section 8.1(c),

(vi) be preceded by the furnishing by the Institution to the Trustee of a labor and materials payment bond, or other security, satisfactory to the Trustee, and

(vii) if the estimated cost of such rebuilding, replacement, repair or restoration is in excess of \$250,000, be effected under the supervision of an Independent Engineer.

(b) The date of completion of the rebuilding, replacement, repair or restoration of the Facility shall be evidenced to the Issuer and the Trustee by a certificate of an Authorized Representative of the Institution stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or arrangement for payment, reasonably satisfactory to the Trustee, has been made (iii) that the Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that all property constituting part of the Facility is under this Agreement and, if applicable, subject to the mortgage lien and security interest of the Mortgage, subject to Permitted Encumbrances, (v) the Rebate Amount applicable with respect to the Net Proceeds and the earnings thereon (with a statement as to the determination of the Rebate Amount and a direction to the Trustee of any required transfer to the Rebate Fund), and (vi) that the restored Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Institution against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and Section 5.03 of the Indenture and (z) that no Person other than the Issuer or the Trustee may benefit therefrom.

(c) The certificate delivered pursuant to Section 6.4(b) shall be accompanied by (i) a certificate of occupancy (either temporary or permanent, provided that if it is a temporary certificate of occupancy, the Institution will proceed with due diligence to obtain a permanent certificate of occupancy), if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by this Agreement; (ii) a certificate of an Authorized Representative of the Institution that all costs of rebuilding, repair, restoration and reconstruction of the Facility have been paid in full, together with releases of mechanics' liens by all contractors and materialmen who supplied work, labor, services, materials or supplies in connection with the rebuilding, repair, restoration and reconstruction of the Facility (or, to the extent that any such costs shall be the subject of a bona fide dispute, evidence to the Trustee that such costs have been appropriately bonded or that the Institution shall have posted a surety or security at least equal to the amount of such costs); and (iii) a search prepared by a title company, or other evidence satisfactory to the Trustee, indicating that there has not been filed with respect to the Facility any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility and that there exist no encumbrances other than Permitted Encumbrances and those encumbrances consented to by the Issuer and the Trustee.

ARTICLE VII

COVENANTS OF THE ISSUER

Section 7.1. Assignment of Promissory Note and Assignment of Mortgage.

On the Closing Date, the Issuer will endorse and assign the Promissory Note to the Trustee and execute and deliver to the Trustee the Assignment of Mortgage.

Section 7.2. Issuance of Initial Bonds. On the Closing Date, subject to the satisfaction of the conditions to the issuance of the Initial Bonds, the Issuer will sell and deliver the Initial Bonds in the Authorized Principal Amount under and pursuant to the Bond Resolution and under and pursuant to the Indenture. The proceeds of sale of the Initial Bonds shall be deposited and applied in accordance with the provisions of the Indenture.

Section 7.3. Issuance of Additional Bonds. Under the provisions of and subject to the conditions set forth in the Indenture, the Issuer is authorized to enter into a Supplemental Indenture and issue one or more series of Additional Bonds on a parity with the Initial Bonds for the purpose of (w) completing the Project, (x) providing funds in excess of the Net Proceeds of insurance or eminent domain to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, (y) providing extensions, additions or improvements to the Facility, or (z) refunding Outstanding Bonds. If the Institution is not in default hereunder or under any other Project Document, the Issuer will consider the issuance of a Series of Additional Bonds in a principal amount as is specified in a written request in accordance with the applicable provisions set forth in the Indenture. .

Section 7.4. Pledge and Assignment to Trustee. As security for the payment of the Bonds and the obligations of the Institution under the Security Documents:

(a) the Institution shall, pursuant to the Mortgage, grant to the Issuer and the Trustee, for the benefit of the Bondholders, a mortgage lien on and security interest in its fee interest in the Mortgaged Property;

(b) the Issuer shall assign its right, title and interest in the Mortgage to the Trustee pursuant to the Assignment of Mortgage; and

the Issuer shall pledge and assign to the Trustee, for the benefit of the Bondholders, pursuant to the Indenture all of the Issuer's right, title and interest in the Promissory Note and all of the Issuer's right, title and interest in this Agreement (except for the Issuer's Reserved Rights), including all loan payments hereunder and under the Promissory Note, and in furtherance of such pledge, the Issuer will unconditionally assign such loan payments to the Trustee for deposit in the Bond Fund in accordance with the Indenture.

ARTICLE VIII

COVENANTS OF THE INSTITUTION

Section 8.1. Insurance.

(a) **Definitions.** The following capitalized terms shall have the respective meanings specified below:

Certificate means an ACORD certificate evidencing insurance.

CGL means commercial general liability insurance.

CM means a construction manager providing construction management services in connection with any Construction.

Construction means any construction, reconstruction, restoration, renovation, alteration and/or repair on, in, at or about the Facility Realty, including the Project Work or any other construction, reconstruction, restoration, alteration and/or repair required under this Agreement in connection with the Facility.

Contractor(s) means, individually or collectively, a contractor or subcontractor providing materials and/or labor and/or other services in connection with any Construction, but not including a GC, CM or any architect or engineer providing professional services.

GC means any general contractor providing general contracting services in connection with any Construction.

Insured means the Institution.

Insurer means any entity writing or issuing a Policy.

ISO means the Insurance Services Office or its successor.

ISO Form CG-0001 means the CGL form published by ISO at the Closing Date.

Policy(ies) means, collectively or individually, the policies required to be obtained and maintained pursuant to Section 8.1(b) and (c).

SIR means self-insured retention.

U/E means Umbrella or Excess Liability insurance.

Workers' Compensation means Workers' Compensation, disability and employer liability insurance.

(b) Required Insurance. Except during periods of Construction, the Insured shall obtain and maintain for itself as a primary insured the following insurance:

(i) CGL with \$1,000,000 minimum per occurrence; \$2,000,000 minimum in the aggregate; and per-location aggregate. This Policy shall contain coverage for contractual liability, premises operations, and products and completed operations.

(ii) U/E with \$4,000,000 minimum per occurrence on terms consistent with CGL. The excess coverage provided under U/E shall be incremental to the CGL to achieve minimum required coverage of \$5,000,000 per occurrence; such incremental coverage must also apply to auto liability (see Section 8.1(b)(iii)), whether auto liability coverage is provided by endorsement to the Insured's CGL or by a stand-alone policy.

(iii) Auto liability insurance with \$1,000,000 combined single limit and \$1,000,000 for uninsured or under-insured vehicles. If the Insured owns any vehicles, it shall obtain auto liability insurance in the foregoing amounts for hired and non-owned vehicles. Coverage should be at least as broad as ISO Form CA0001, ed. 10/01.

(iv) Workers Compensation satisfying State statutory limits. Coverage for employer liability shall be in respect of any work or operations in, on or about the Facility Realty.

(v) Property insurance in the amount required under the Mortgage.

(c) Required Insurance During Periods of Construction. In connection with any Construction and throughout any period of such Construction, the Institution shall cause the following insurance requirements to be satisfied:

(i) The Insured shall obtain and maintain for itself Policies in accordance with all requirements set forth in Section 8.1(b).

(ii) Any GC or CM shall obtain and maintain for itself as a primary insured the following Policies:

(A) CGL and U/E in accordance with the requirements in Section 8.1(b), subject to the following modifications: (x) coverage shall be in an aggregate minimum amount of \$10,000,000 per project aggregate, and (y) completed operations coverage shall extend (or be extended) for an additional five (5) years after completion of the Construction (which will be deemed to be the Project Completion Date unless the Institution shall have provided written notice and satisfactory evidence to the Issuer that the Construction was completed as of a specified earlier date);

(B) Auto liability insurance in accordance with the requirements in Section 8.1(b); and

(C) Workers' Compensation in accordance with the requirements in Section 8.1(b).

(iii) Notwithstanding preceding subsections "i" and "ii," during Construction aggregate minimum coverage in the amount of \$15,000,000 (combined CGL and U/E required by Sections 8.1(b) and 8.1(c)) may be achieved by any combination of coverage amounts between the Insureds on the one hand and the GC or CM on the other.

(iv) Each Contractor shall obtain and maintain for itself as a primary insured the following insurance:

(A) CGL and U/E in accordance with the requirements in Section 8.1(b) except that, in addition, completed operations coverage shall extend (or be extended) for an additional five (5) years after completion of the Construction (which will be deemed to be the Project Completion Date unless the Institution shall have provided written notice and satisfactory evidence to the Issuer that the Construction was completed as of a specified earlier date);

(B) Auto Liability insurance in accordance with the requirements in Section 8.1(b); and

(C) Workers' Compensation in accordance with the requirements in Section 8.1(b).

(d) Required Policy Attributes. Except as the Issuer and the Trustee shall expressly otherwise agree in writing in their sole and absolute discretion:

(i) The Institution shall cause each Policy (other than Worker's Compensation and auto liability insurance) to name the Issuer and the Trustee as additional insureds on a primary and non-contributory basis as more particularly required in Section 8.1(f)(i).

(ii) No Policy shall have a deductible.

(iii) CGL shall not be subject to SIR.

(iv) CGL shall be written on either ISO Form CG-0001 or on such other form that the Institution may request provided that any requested substitute shall provide an additional insured with substantially equivalent coverage to that enjoyed by an additional insured in a policy written on ISO Form CG-0001 and provided further that the substitute is reasonably approved by the Issuer. If the Insured intends to renew its CGL on a form that is not ISO Form CG-0001, it shall provide the Issuer and the Trustee with a copy of the substitute form at least sixty (60) days prior to the intended date on which the renewal Policy is to be effective.

(v) The Institution acknowledges that the Issuer and the Trustee are materially relying upon the content of ISO Form CG-0001 to implement the Issuer's

insurance requirements under this Section 8.1; accordingly, the Institution agrees that non-standard exclusions and other modifications to ISO Form CG-0001 are prohibited under the terms and conditions of this Section 8.1. In the event that ISO either ceases to exist or discontinues ISO Form CG-0001, the Issuer or the Trustee shall have the right to require, for all purposes hereunder, a different CGL form, provided that the replacement is substantially similar to ISO Form CG-0001.

(vi) Without limiting Section 8.1(d)(v) or the application of any other requirement under this Section 8.1, no Policy delivered hereunder shall limit (whether by exception, exclusion, endorsement, script or other modification) any of the following coverage attributes:

- (A) contractual liability coverage insuring the contractual obligations of the Insureds;
- (B) employer's liability coverage;
- (C) coverage for claims arising under New York Labor Law;
- (D) the right of the Insured to name additional insureds including the Issuer and the Trustee;
- (E) the applicability of CGL coverage to the Issuer and the Trustee as additional insureds in respect of liability arising out of any of the following claims: (x) claims against the Issuer and/or the Trustee by employees of an Insured, or (y) claims against the Issuer and/or the Trustee by any GC, CM, Contractor, architect or engineer or by the employees of any of the foregoing, or (z) claims against the Issuer and/or the Trustee arising out of any work performed by a GC, CM, Contractor, architect or engineer.

(vii) U/E shall follow the form of CGL except that U/E may be broader.

(viii) Each Policy shall provide primary insurance and the issuing Insurer shall not have a right of contribution from any other insurance policy insuring the Issuer and/or the Trustee.

(ix) In each Policy, the Insurer shall waive, as against any Person insured under such Policy including any additional insured, the following: (x) any right of subrogation, (y) any right to set-off or counterclaim against liability incurred by a primary insured or any additional insured, and (z) any other deduction, whether by attachment or otherwise, in respect of any liability incurred by any primary insured or additional insured.

(x) Policies shall not be cancellable without at least thirty (30) days' prior written notice to the Issuer and the Trustee as additional insureds.

(xi) Each Policy under which the Issuer and the Trustee is an additional insured shall provide that the Issuer and the Trustee will not be liable for any insurance premium, commission or assessment under or in connection with any Policy.

(e) Required Insurer Attributes. All Policies must be issued by Insurers satisfying the following requirements:

(i) Insurers shall have a minimum AM Best rating of A minus.

(ii) Each Insurer must be an authorized insurer in accordance with Section 107(a) of the New York State Insurance Law.

(iii) Insurers must be admitted in the State; provided, however, that if an Insured requests the Issuer to accept a non-admitted Insurer, and if the Issuer reasonably determines that for the kind of operations performed by the Insured an admitted Insurer is commercially unavailable to issue a Policy or is non-existent, then the Issuer shall provide its written consent to a non-admitted Insurer. For purposes of this paragraph, an "admitted" Insurer means that the Insurer's rates and forms have been approved by the State Department of Financial Services and that the Insurer's obligations are entitled to be insured by the State's insurance guaranty fund.

(f) Required Evidence of Compliance. The Institution shall deliver or cause to be delivered evidence of all Policies required hereunder as set forth in this Section 8.1(f):

(i) All Policies. With respect to all Policies on which an Insured is to be a primary insured, the Insured shall deliver to the Issuer and the Trustee a Certificate or Certificates evidencing all Policies required by this Section 8.1 (w) at the Closing Date, (x) prior to the expiration or sooner termination of Policies, (y) prior to the commencement of any Construction, and (z) upon request by the Issuer or the Trustee. If the Certificate in question evidences CGL, such Certificate shall name the Issuer and the Trustee as additional insureds in the following manner:

Build NYC Resource Corporation and The Bank of New York Mellon, as Trustee, are each additional insureds on a primary and non-contributory basis. The referenced CGL is written on ISO Form CG-0001 without modification to the contractual liability, employer's liability or waiver-of-subrogation provisions thereof, and contains no endorsement limiting or excluding coverage for claims arising under New York Labor Law, covering the following premises: 356-62 East 139th Street, Bronx, New York 10454;

(ii) CGL. With respect to CGL on which the Insured is to be a primary insured, the Insured shall additionally deliver to the Issuer and the Trustee the following:

(A) Prior to the Closing Date, the Insured shall deliver to the Issuer and the Trustee the declarations page and the schedule of forms and endorsements pertinent thereto.

(B) Upon the expiration or sooner termination of any CGL, the Insured shall deliver to the Issuer and the Trustee a declarations page and a schedule of forms and endorsements pertinent to the new or replacement CGL.

(C) Prior to the commencement of any Construction, the Insured shall deliver to the Issuer and the Trustee a declarations page and a schedule of forms and endorsements pertinent to the CGL under which the Insured is to be the primary insured during the period of such Construction.

(iii) Insurance to be obtained by GCs and CMs. Prior to the commencement of any Construction that entails the services of a GC or CM, the Institution shall provide to the Issuer and the Trustee, in a form satisfactory to the Issuer and the Trustee, evidence that the GC or CM (as the case may be) has obtained the Policies that it is required to obtain and maintain in accordance with Section 8.1(c).

(iv) Insurance to be obtained by Contractors. In connection with any Construction, the Institution shall, upon the written request of the Issuer or the Trustee, cause any or all Contractors to provide evidence, satisfactory to the Issuer and the Trustee, that such Contractors have obtained and maintain the Policies that they are required to obtain and maintain in accordance with the requirements of Section 8.1(c).

(g) Notice. The Institution shall immediately give the Issuer and the Trustee notice of each occurrence that is reasonably probable to give rise to a claim under the insurance required to be maintained by this Section 8.1.

(h) Miscellaneous.

(i) If, in accordance with the terms and conditions of this Section 8.1, an Insured is required to obtain the consent of the Issuer and/or the Trustee, the Institution shall request such consent in a writing provided to the Issuer and/or the Trustee at least thirty (30) days in advance of the commencement of the effective period (or other event) to which the consent pertains.

(ii) The delivery by an Insured of a Certificate evidencing auto liability insurance for hired and non-owned vehicles shall, unless otherwise stated by the Institution to the contrary, constitute a representation and warranty from the Insured to the Issuer and the Trustee that the Insured does not own vehicles.

(iii) The Insured shall neither do nor omit to do any act, nor shall it suffer any act to be done, whereby any Policy would or might be terminated, suspended or impaired.

(iv) If insurance industry standards applicable to properties similar to the Facility Realty and/or operations similar to the operations of the Institution materially change; and if, as a consequence of such change, the requirements set forth in this Section 8.1 become inadequate in the reasonable judgment of the Issuer or the Trustee for the purpose of protecting the Issuer and the Trustee against third-party claims, then the Issuer or the Trustee shall have the right to supplement and/or otherwise modify such

requirements, provided, however, that such supplements or modifications shall be commercially reasonable.

(v) THE ISSUER AND THE TRUSTEE DO NOT REPRESENT THAT THE INSURANCE REQUIRED IN THIS SECTION 8.1, WHETHER AS TO SCOPE OR COVERAGE OR LIMIT, IS ADEQUATE OR SUFFICIENT TO PROTECT THE INSURED AND ITS OPERATIONS AGAINST CLAIMS AND LIABILITY.

(vi) The Issuer, in its sole discretion and without obtaining the consent of the Trustee or any other party to the transactions contemplated by this Agreement, may make exceptions to the requirements under this Section 8.1 by a written instrument executed by the Issuer. In the event the Institution shall request the Issuer to make any exception to the requirements under this Section 8.1, the Issuer shall not unreasonably withhold its consent. The Institution acknowledges that the Issuer's decision in this respect will be deemed reasonable if made in furtherance of protecting the Issuer from liability.

Section 8.2. Indemnity.

(a) The Institution shall at all times indemnify, defend, protect and hold the Issuer, the Trustee, the Bond Registrar and the Paying Agents, and any director, member, officer, employee, servant, agent (excluding for this purpose the Institution, which is not obligated hereby to indemnify its own employees, Affiliates or affiliated individuals) thereof and persons under the Issuer's control or supervision (collectively, the "**Indemnified Parties**") and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), taxes (of any kind and by whomsoever imposed), demands, penalties, fines, liabilities, lawsuits, actions, proceedings, settlements, costs and expenses, including attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses (collectively, "**Claims**") of any kind for losses, damage, injury and liability (collectively, "**Liability**") of every kind and nature and however caused (except, with respect to any Indemnified Party, Liability arising from the gross negligence or willful misconduct of such Indemnified Party), arising during the period commencing on the Indemnification Commencement Date, and continuing until the termination of this Agreement, arising upon, about, or in any way connected with the Facility, the Project, or any of the transactions with respect thereto, including:

(i) the financing of the costs of the Facility or the Project and the marketing, offering, issuance, sale and remarketing of the Bonds for such purpose,

(ii) the planning, design, acquisition, site preparation, Project Work, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Facility, or any defects (whether latent or patent) in the Facility,

(iii) the maintenance, repair, replacement, restoration, rebuilding, construction, renovation, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Facility or any portion thereof,

(iv) the execution and delivery by an Indemnified Party, the Institution or any other Person of, or performance by an Indemnified Party, the Institution or any other Person, as the case may be, of, any of their respective obligations under, this Agreement or any other Project Document, or other document or instrument delivered in connection herewith or therewith or the enforcement of any of the terms or provisions hereof or thereof or the transactions contemplated hereby or thereby,

(v) any damage or injury to the person or property of any Person in or on the premises of the Facility,

(vi) any imposition arising from, burden imposed by, violation of, or failure to comply with any Legal Requirement, including failure to comply with the requirements of the City's zoning resolution and related regulations, or

(vii) the presence, disposal, release, or threatened release of any Hazardous Materials that are on, from, or affecting the Facility; any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials, and/or any violation of Legal Requirements, including demands of government authorities, or any policies or requirements of the Issuer, which are based upon or in any way related to such Hazardous Materials.

(b) The Institution releases each Indemnified Party from, and agrees that no Indemnified Party shall be liable to the Institution or its Affiliates for, any Claim or Liability arising from or incurred as a result of action taken or not taken by such Indemnified Party with respect to any of the matters set forth in Section 8.2(a) including any Claim or Liability arising from or incurred as a result of the negligence or gross negligence of such Indemnified Party, or at the direction of the Institution with respect to any of such matters above referred to.

(c) An Indemnified Party shall promptly notify the Institution in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Institution pursuant to this Section 8.2; such notice shall be given in sufficient time to allow the Institution to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Institution under this Section 8.2.

(d) Anything to the contrary in this Agreement notwithstanding, the covenants of the Institution contained in this Section 8.2 shall be in addition to any and all other obligations and liabilities that the Institution may have to any Indemnified Party in any other agreement or at common law, and shall remain in full force and effect after the termination of this Agreement until the later of (x) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (y) payment in full or the

satisfaction of such claim or cause of action and of all expenses and charges incurred by the Indemnified Party relating to the enforcement of the provisions herein specified.

Section 8.3. Compensation and Expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents; Rating Fees, Administrative and Project Fees.

(a) The Institution shall pay the fees, costs and expenses of the Issuer together with any fees and disbursements incurred by lawyers or other consultants in performing services for the Issuer in connection with this Agreement or any other Project Document, together with all fees and costs incurred in connection with complying with Section 8.12(b) (including fees and disbursements of lawyers and other consultants).

(b) On the Closing Date, the Institution shall pay to the Issuer the Initial Annual Administrative Fee and the Project Fee.

(c) The Institution further agrees to pay the Annual Administrative Fee to the Issuer on each July 1 following the Closing Date until the Termination Date (the Annual Administrative Fee shall not be pro-rated for the final period ending on the Termination Date). In the event the Institution shall fail to pay the Annual Administrative Fee on the date due, the Issuer shall have no obligation to deliver notice of such failure to the Institution.

(d) The Institution shall, to the extent not paid out of the proceeds of the Bonds as financing expenses, pay the following fees, charges and expenses and other amounts:

(i) the initial and annual fees of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture and the Custody Agreement, including fees and expenses as Bond Registrar and in connection with preparation of new Bonds upon exchanges or transfers or making any investments in accordance with the Indenture and the reasonable fees of its counsel,

(ii) the reasonable fees and charges of the Trustee and any Paying Agents on the Bonds for acting as paying agents as provided in the Indenture, including the reasonable fees of its counsel,

(iii) the reasonable fees, charges, and expenses of the Trustee for extraordinary services rendered by it under the Indenture, including reasonable counsel fees,

(iv) the initial and annual fees of the Continuing Disclosure Agent;

(v) rating fees; and

(vi) the reasonable fees, costs and expenses of the Bond Registrar.

(e) The Institution shall cause the School to pay to the Custodian the following amounts: (a) the reasonable fees, costs and expenses of the Custodian for performing its obligations under the Custody Agreement; (b) the sum of the expenses of the Custodian reasonably incurred in performing the obligations of the Company under the Custody

Agreement; and (c) the Custodian's reasonable attorneys' fees incurred in connection with the foregoing and other moneys due the Custodian pursuant to the provisions of the Custody Agreement.

Section 8.4. Current Facility Personalty Description. The Institution covenants and agrees that, until the termination of this Agreement, including upon the completion of the Project or of any replacement, repair, restoration or reconstruction of the Facility pursuant to Article VI, it will cause Exhibit B — "Description of the Facility Personalty", together with the "Description of the Facility Personalty" attached as part of the appendices to the Indenture, this Agreement and the Mortgage, to be an accurate and complete description of all current items of Facility Personalty. To this end, the Institution covenants and agrees that (x) no requisition shall be submitted to the Trustee for moneys from the Project Fund for the acquisition or installation of any item of Facility Personalty, (y) no item of Facility Personalty shall be substituted or replaced by a new item of machinery, equipment or other tangible personal property except pursuant to Section 3.5(a) or Article VI, and (z) no item of Facility Personalty shall be delivered and installed at the Facility Realty as part of the property comprising the Facility, unless in each case such item of machinery, equipment or other item of tangible personal property shall be accurately and sufficiently described in Exhibit B — "Description of the Facility Personalty", together with the "Description of the Facility Personalty" in the appendices attached as part of the Indenture, this Agreement and the Mortgage, and the Institution shall from time to time prepare and deliver to the Issuer and the Trustee supplements to such Appendices in compliance with the foregoing. Such supplements shall be executed and delivered by the appropriate parties and, at the Trustee's request, duly recorded by the Institution, and, at the Trustee's request, additional financing statements with respect thereto shall be duly filed by the Institution.

Section 8.5. Signage at Facility Site. Upon commencement of the renovation and/or construction of the Improvements at the Facility in connection with the Project (including the commencement of any demolition and/or excavation), the Institution shall erect on the Facility site, at its own cost and expense, within easy view of passing pedestrians and motorists, a large and readable sign with the following information upon it (hereinafter, the "Sign"):

*FINANCIAL ASSISTANCE PROVIDED
THROUGH THE
BUILD NYC RESOURCE CORPORATION
Mayor Bill de Blasio*

In addition, the Sign shall satisfy the following requirements: (x) format and appearance generally shall be stipulated by the Issuer in writing or electronically; (y) the minimum size of the Sign shall be four (4) feet by eight (8) feet; and (z) the Sign shall have no other imprint upon it other than that of the Issuer. The Sign shall remain in place at the Facility until completion of the renovations and/or construction. The Institution may erect other signs in addition to the Sign.

Section 8.6. Environmental Matters.

(a) On or before the Closing Date, the Institution shall provide to the Issuer and the Trustee a letter from the Environmental Auditor addressed to the Issuer and the Trustee,

stating that the Issuer and the Trustee may rely upon the Environmental Audit as if it was prepared for the Issuer and the Trustee in the first instance.

(b) The Institution shall not cause or permit the Facility or any part thereof to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all applicable Legal Requirements, nor shall the Institution cause or permit, as a result of any intentional or unintentional act or omission on the part of the Institution or any occupant or user of the Facility, a release of Hazardous Materials onto the Facility or onto any other property.

(c) The Institution shall comply with, and require and enforce compliance by, all occupants and users of the Facility with all applicable Legal Requirements pertaining to Hazardous Materials, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all occupants and users of the Facility obtain and comply with, any and all approvals, registrations or permits required thereunder.

(d) The Institution shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Facility in accordance with all applicable Legal Requirements.

(e) In the event the Mortgage is foreclosed, or a deed in lieu of foreclosure is tendered, or this Agreement is terminated as provided in Article IX, the Institution shall deliver the Mortgaged Property so that the conditions of the Mortgaged Property with respect to any and all Hazardous Materials shall conform with all applicable Legal Requirements affecting the Mortgaged Property.

(f) The parties hereto agree that the reference in Section 2.2(m) to the Environmental Audit is not intended, and should not be deemed to intend, to modify, qualify, reduce or diminish the Institution's obligations to carry out and perform all of the covenants stated throughout this Section 8.6 and in Section 8.2.

Section 8.7. Employment Matters.

(a) Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor ("DOL") Community Services Division, and with the administrative entity of the service delivery area created by the Workforce Investment Act of 1998 (29 U.S.C. §2801) in which the Facility Realty is located. Except as is otherwise provided by collective bargaining contracts or agreements, the Institution agrees, where practicable, to consider first, and cause each of its Affiliates at the Facility to consider first, persons eligible to participate in the Workforce Investment Act of 1998 (29 U.S.C. §2801) programs who shall be referred by administrative entities of service delivery areas created pursuant to such Act or by the Community Services Division of the DOL for such new employment opportunities.

(b) Upon the Issuer's written request, the Institution shall provide to the Issuer any employment information in the possession of the Institution which is pertinent to the Institution and the employees of the Institution to enable the Issuer and/or NYCEDC to comply

with its reporting requirements required by City Charter §1301 and any other applicable laws, rules or regulations.

(c) The Institution hereby authorizes any private or governmental entity, including the DOL, to release to the Issuer and/or NYCEDC, and/or to the successors and assigns of either (collectively, the “**Information Recipients**”), any and all employment information under its control and pertinent to the Institution and the employees of the Institution to enable the Issuer and/or NYCEDC to comply with its reporting requirements required by City Charter §1301 and any other applicable laws, rules or regulations. Information released or provided to Information Recipients by DOL, or by any other governmental entity, or by any private entity, or by the Institution, or any information previously released as provided by all or any of the foregoing parties (collectively, “**Employment Information**”) may be disclosed by the Information Recipients in connection with the administration of the programs of the Issuer, and/or NYCEDC, and/or the successors and assigns of either, and/or the City, and/or as may be necessary to comply with law; and, without limiting the foregoing, the Employment Information may be included in (x) reports prepared by the Information Recipients pursuant to City Charter §1301, (y) other reports required of the Issuer, and (z) any other reports required by law. This authorization shall remain in effect until the termination of this Agreement.

(d) Upon the request of the Issuer, the Institution shall cooperate with the Issuer in the development of programs for the employment and/or training of members of minority groups in connection with performing work at the Facility.

(e) Nothing in this Section shall be construed to require the Institution to violate any existing collective bargaining agreement with respect to hiring new employees.

Section 8.8. Non-Discrimination.

(a) At all times during the maintenance and operation of the Facility, the Institution shall not discriminate nor permit any of its Affiliates to discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Institution shall use its best efforts to ensure that employees and applicants for employment with any tenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term “treated” shall mean and include the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Institution shall, in all solicitations or advertisements for employees placed by or on behalf of the Institution state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Institution shall furnish to the Issuer all information required by the Issuer pursuant to this Section and will cooperate with the Issuer for the purposes of investigation to ascertain compliance with this Section.

Section 8.9. Assignment of this Agreement or Lease of Facility.

(a) The Institution shall not at any time, except as permitted by Section 8.20, assign or transfer this Agreement without the prior written consents of the Issuer and the Trustee (which consents may be withheld by the Issuer or the Trustee in their absolute discretion); provided further, that the following conditions must be satisfied on or prior to the date the Issuer and the Trustee consent to any such assignment or transfer:

(i) the Institution shall have delivered to the Issuer and the Trustee a certificate of an Authorized Representative to the effect that the transfer or assignment to the assignee or transferee (the “New Institution”) shall not cause the Facility to cease being the Approved Facility;

(ii) the New Institution shall be liable to the Issuer for the payment of all loan and other payments and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Project Document to which it shall be a party;

(iii) the New Institution shall have assumed in writing (and shall have executed and delivered to the Issuer and the Trustee such document and have agreed to keep and perform) all of the terms of this Agreement and each other Project Document on the part of the New Institution to be kept and performed, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) the New Institution shall be a not-for-profit corporation or a limited liability company constituting a Tax-Exempt Organization;

(v) such assignment or transfer shall not violate any provision of this Agreement or any other Project Document;

(vi) an Opinion of Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that, (x) such assignment or transfer shall constitute the legally valid, binding and enforceable obligation of the New Institution and shall not legally impair in any respect the obligations of the New Institution for the payment of all loan payments nor for the full performance of all of the terms, covenants and conditions of this Agreement, of the Promissory Note or of any other Project Document to which the New Institution shall be a party, nor impair or limit in any respect the obligations of any other obligor under any other Project Document, and (y) this Agreement and each of the other Project Documents to which the New Institution is a party constitute the legally valid, binding and enforceable obligation of the New Institution;

(vii) the New Institution shall have delivered to the Issuer the Required Disclosure Statement in form and substance satisfactory to the Issuer;

(viii) each such assignment shall contain such other provisions as the Issuer or the Trustee may reasonably require; and

(ix) an opinion of Nationally Recognized Bond Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such assignment or transfer shall not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes.

The Institution shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such assignment or transfer in substantially final form at least thirty (30) days prior to the date of execution thereof.

(b) The Institution shall not at any time lease all or substantially all of the Facility, without the prior written consents of the Issuer and the Trustee (which consents may be withheld by the Issuer or the Trustee in their absolute discretion); nor shall the Institution lease part (*i.e.*, not constituting substantially all) of the Facility without the prior written consents of the Issuer and the Trustee (which consents shall, in such case, not be unreasonably withheld and, in the case of the Issuer, such consent to be requested by the Institution of the Issuer in the form prescribed by the Issuer, and such consent of the Issuer to take into consideration the Issuer's policies as in effect from time to time); provided further, that the following conditions must be satisfied on or prior to the date the Issuer and the Trustee consent to any such letting:

(i) the Institution shall have delivered to the Issuer and the Trustee a certificate of an Authorized Representative to the effect that the lease shall not cause the Facility to cease being the Approved Facility;

(ii) the Institution shall remain primarily liable to the Issuer for the payment of all loan and other payments and for the full performance of all of the terms, covenants and conditions of this Agreement and of the Promissory Note and of any other Project Document to which it shall be a party;

(iii) any lessee in whole or substantially in whole of the Facility shall have assumed in writing (and shall have executed and delivered to the Issuer and the Trustee such document) and have agreed to keep and perform all of the terms of this Agreement and each other Project Document on the part of the Institution to be kept and performed, shall be jointly and severally liable with the Institution for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) any lessee shall utilize the Facility as the Approved Facility and shall constitute a Tax-Exempt Organization;

(v) such lease shall not violate any provision of this Agreement or any other Project Document;

(vi) with respect to any letting in part of the Facility, no more than an aggregate of twenty percent (20%) of the Completed Improvements Square Footage shall be leased by the Institution;

(vii) an Opinion of Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such lease shall constitute the legally valid,

binding and enforceable obligation of the lessee and shall not legally impair in any respect the obligations of the Institution for the payment of all loan or other payments nor for the full performance of all of the terms, covenants and conditions of this Agreement, of the Promissory Note or of any other Project Document to which the Institution shall be a party, nor impair or limit in any respect the obligations of any other obligor under any other Project Document;

(viii) such lease shall in no way diminish or impair the obligation of the Institution to carry the insurance required under Section 3.11 of the Mortgage or Section 8.1 and the Institution shall furnish written evidence satisfactory to the Issuer and the Trustee that such insurance coverage shall in no manner be diminished or impaired by reason of such assignment, transfer or lease;

(ix) any such lessee shall have delivered to the Issuer the Required Disclosure Statement in form and substance satisfactory to the Issuer;

(x) each such lease shall contain such other provisions as the Issuer or the Trustee may reasonably require; and

(xi) an opinion of Nationally Recognized Bond Counsel shall have been delivered and addressed to the Issuer and the Trustee, to the effect that such lease shall not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes.

The Institution shall furnish or cause to be furnished to the Issuer and the Trustee a copy of any such lease in substantially final form at least thirty (30) days prior to the date of execution thereof.

(c) Any consent by the Issuer or the Trustee to any act of assignment, transfer or lease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of the Institution, or the successors or assigns of the Institution, to obtain from the Issuer and the Trustee consent to any other or subsequent assignment, transfer or lease, or as modifying or limiting the rights of the Issuer or the Trustee under the foregoing covenant by the Institution.

(d) For purposes of this Section 8.9, any license or other right of possession or occupancy granted by the Institution with respect to the Facility shall be deemed a lease subject to the provisions of this Section 8.9.

Section 8.10. Retention of Title to or of Interest in Facility; Grant of Easements; Release of Portions of Facility.

(a) The Institution shall not sell, assign, encumber (other than Permitted Encumbrances), convey or otherwise dispose of its fee title to or interest in the Facility, including the Improvements, or any part of the Facility or interest therein, except as set forth in Sections 3.3, 3.4, 3.5, 3.6, Article VI, 8.9 and 9.2 or in this Section, without (i) the prior written consents of the Issuer and of the Trustee and (ii) the Institution delivering to the Trustee and the Issuer an opinion of Nationally Recognized Bond Counsel to the effect that such action pursuant

to this Section will not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income taxes. Any purported disposition without such consents and opinion shall be void.

(b) The Institution may, with the prior written consents of the Issuer and the Trustee (such consents not to be unreasonably withheld or delayed), so long as there exists no Event of Default hereunder, grant such rights of way or easements over, across, or under, the Facility Realty, or grant such permits or licenses in respect to the use thereof, free from the lien and security interest of the Mortgage, as shall be necessary or convenient in the opinion of the Institution for the operation or use of the Facility, or required by any utility company for its utility business, provided that, in each case, such rights of way, easements, permits or licenses shall not adversely affect the use or operation of the Facility as the Approved Facility, and provided, further, that any consideration received by the Institution from the granting of said rights-of-way, easements, permits or licenses shall be paid to the Trustee and deposited in the Redemption Account of the Bond Fund. The Issuer agrees, at the sole cost and expense of the Institution, to execute and deliver, and to cause and direct the Trustee to execute and deliver, any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the lien and security interest of the Mortgage.

(c) So long as there exists no Event of Default hereunder, and the Institution delivers to the Trustee and the Issuer an opinion of Nationally Recognized Bond Counsel to the effect that the following action will not affect the exclusion of the interest on any Bonds then Outstanding from gross income for federal income tax purposes, the Institution may from time to time request in writing to the Issuer and the Trustee the release of and removal from the property comprising the Facility under this Agreement and the lien and security interest of the Mortgage, of any unimproved part of the Land (on which none of the Improvements, including the buildings, structures, major appurtenances, fixtures or other property comprising the Facility Realty, is situated); provided that such release and removal will not adversely affect the use or operation of the Facility as the Approved Facility. Upon any such request by the Institution, the Issuer shall, at the sole cost and expense of the Institution, cause and direct the Trustee to execute and deliver any and all instruments necessary or appropriate to so release and remove such unimproved Land from the property comprising the Facility under this Agreement and the lien and security interest of the Mortgage, subject to the following:

- (i) any liens, easements, encumbrances and reservations to which title to said property was subject on the Closing Date;
- (ii) any liens, easements and encumbrances created at the request of the Institution or to the creation or suffering of which the Institution consented;
- (iii) any liens and encumbrances or reservations resulting from the failure of the Institution to perform or observe any of the agreements on its respective part contained in this Agreement or any other Project Document;
- (iv) Permitted Encumbrances (other than the lien of the Mortgage); and

- (v) any liens for taxes or assessments not then delinquent;

provided, however, that no such release shall be effected unless the following conditions have been satisfied:

(1) the Trustee shall have received a certificate of an Independent Engineer, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the person signing such certificate, the unimproved Land and the release thereof so proposed to be made is not needed for the operation of the remaining Facility, will not adversely affect the use or operation of the Facility as the Approved Facility and will not destroy the means of ingress thereto and egress therefrom;

(2) the Trustee shall have received an amount of cash for deposit in the Redemption Account of the Bond Fund equal to the greatest of (A) the original cost of the unimproved Land so released, such allocable cost to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, (B) the fair market value of such unimproved Land, such value to be determined by the appraisal of an independent real estate brokerage firm of recognized standing within the City, and (C) if such unimproved Land is released in connection with its sale, the amount received by the Institution upon such sale; and

(3) the Facility Realty as shall remain subject to the Mortgage shall not constitute a portion of a tax lot.

(d) No conveyance or release effected under the provisions of this Section 8.10 shall entitle the Institution to any abatement or diminution of the loan payments or other amounts payable under Section 4.3 or any other payments required to be made by the Institution under this Agreement or any other Project Document to which it shall be a party.

Section 8.11. Discharge of Liens.

(a) If any lien, encumbrance or charge is filed or asserted (including any lien for the performance of any labor or services or the furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called "**Liens**"), whether or not valid, is made against the Trust Estate, the Facility or any part thereof or the interest therein of the Institution or against any of the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Security Documents, or the interest of the Issuer or the Institution in any Security Document, other than Liens for Impositions not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 8.11(b), the Institution forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice thereof to the Issuer and the Trustee and take all action (including the payment of money and/or the securing of a bond with respect to any such Lien) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full of such Lien and

to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Issuer for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien not permitted under this Section 8.11(a).

(b) The Institution may at its sole cost and expense contest (after prior written notice to the Issuer and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if:

(i) such proceeding shall suspend the execution or enforcement of such Lien against the Trust Estate, the Facility or any part thereof or interest therein, or against any of the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Project Documents or the interest of the Issuer or the Institution in any Project Document,

(ii) neither the Facility nor any part thereof or interest therein, the Trust Estate or any portion thereof, the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Security Documents or the interest of the Issuer or the Institution in any Security Document would be in any danger of being sold, forfeited or lost,

(iii) none of the Institution, the Issuer or the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and

(iv) the Institution shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents.

Section 8.12. Filing.

(a) The security interest granted by the Issuer to the Trustee pursuant to the Indenture in the rights and other intangible interests described therein, shall be perfected by the filing of financing statements at the direction of the Issuer (at the sole cost and expense of the Institution) in the office of the Secretary of State of the State in the City of Albany, New York, and in the offices of such Register of the City, which financing statements shall be in accordance with Article 9 (Secured Transactions) of the New York State Uniform Commercial Code.

(b) As of the Closing Date,

(i) Section 9-515 of the New York State Uniform Commercial Code provides that an initial financing statement filed in connection with a “public-finance transaction” is effective for a period of thirty (30) years after the date of filing if such initial financing statement indicates that it is filed in connection with a public-finance transaction,

(ii) Section 9-102(67) of the New York State Uniform Commercial Code defines a “public-finance transaction” as a secured transaction in connection with

which (x) debt securities are issued, (y) all or a portion of the debt securities issued have an initial stated maturity of at least twenty (20) years, and (z) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a security interest is a state or a governmental unit of a state, and

(iii) subject to any future change in law, the initial financing statement as shall be filed with respect to the security interest described above shall therefore have an effective period of thirty (30) years after the date of filing, for the purpose of determining the date by which continuation statements shall be filed.

(c) The parties hereto acknowledge and agree that, because the foregoing financing statements evidence collateral for the Initial Bonds, and because the Initial Bonds are municipal debt securities with a term that is at least twenty (20) years in duration, there is no need under the Uniform Commercial Code of the State of New York to re-file such financing statements in order to preserve the liens and security interests that they create for the period commencing with the Closing Date and terminating on the thirtieth anniversary of the Closing Date.

Subsequent to the initial filings, if it is necessary to re-file financing statements and/or file continuation statements and/or take any other actions to preserve the lien and security interest of the Indenture (individually or collectively, the “**Continuation Action(s)**”), then the Institution in a timely manner shall: (A) as applicable, (i) prepare and deliver to the Trustee all necessary instruments and filing papers, together with remittances equal to the cost of required filing fees and other charges, so that the Trustee may perform the Continuation Actions, or (ii) electronically perform the Continuation Actions and deliver to the Trustee written certification (upon which the Trustee may conclusively rely) that such performance has occurred, specifying the Continuation Actions performed, or (iii) perform some of the Continuation Actions in the manner described in clause “(i)” and the others in the manner described in clause “(ii)”; and (B) if requested by the Trustee (acting at the direction of the Majority Holders) or the Issuer, deliver or cause to be delivered to the Issuer and the Trustee the Opinion of Counsel to the Institution as described below. The Trustee may conclusively rely upon (y) when applicable, the certification referred to in clause “(A)(ii),” and (z) in all instances, the Opinion of Counsel to the Institution. In the event the Institution chooses to have the Trustee perform all or some of the Continuation Actions, as provided in clause “(A)(i),” the Trustee shall reasonably promptly perform such Continuation Actions at the Institution’s sole expense. The Institution shall perform the obligations described hereinabove in clauses “(A)” (in every case) and “(B)” (if so requested) no later than ten (10) days prior to (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) each fifth (5th) anniversary thereafter, and/or (ii) the date (not covered by clause “(i)”) on which a Continuation Action is to be taken to preserve the lien and security interest of the Indenture.

If an Opinion of Counsel to the Institution is requested pursuant to clause “(B),” then the Opinion of Counsel to the Institution shall be addressed to the Institution, the Issuer and the Trustee. If so requested, the Institution shall deliver successive Opinions of Counsel in respect of (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) every five-year anniversary thereafter through the term of the Initial Bonds, and/or (ii) the date of any required Continuation Action not covered by clause “(i),” in each case not later than fifteen (15) days

prior to the date on which a Continuation Action is required to be taken. In the Opinion of Counsel to the Institution, counsel shall opine as to: (i) what Continuation Actions are necessary; and (ii) the deadline dates for the required Continuation Actions; and (iii) the jurisdictions in which the Continuation Actions must be effected. Counsel in such opinion shall additionally opine that, upon performance of the Continuation Actions by, as the case may be, (i) the Trustee with instruments and papers prepared by the Institution, or (ii) the Institution through electronic filing, or (iii) the Trustee as to some Continuation Actions, and the Institution as to the others through electronic filings, all appropriate steps shall have been taken on the part of the Institution, the Issuer and the Trustee then requisite to the maintenance of the perfection of the security interest of the Trustee in and to all property and interests which by the terms of the Indenture are to be subjected to the lien and security interest of the Indenture.

(d) Any filings with respect to the Uniform Commercial Code financing statements may be made electronically, and the Issuer shall have the right to designate a company (which shall be reasonably acceptable to the Trustee) to facilitate the filing of the Uniform Commercial Code financing statements.

(e) The Institution acknowledges and agrees that neither the Issuer nor the Trustee, nor any of their respective directors, members, officers, employees, servants, agents, persons under its control or supervision, or attorneys (including Bond Counsel to the Issuer), shall have any responsibility or liability whatsoever related in any way to the filing or re-filing of any Uniform Commercial Code financing statements or continuation statements, or the perfection or continuation of perfection of any security interests, or the recording or rerecording of any document, or the failure to effect any act referred to in this Section, or the failure to effect any such act in all appropriate filing or recording offices, or the failure of sufficiency of any such act so effected.

(f) The Institution agrees to perform all other acts (including the payment of all fees and expenses) necessary in order to enable the Issuer and the Trustee to comply with this Section and with Section 7.07 of the Indenture, including but not limited to, providing prompt notice to the Trustee of any change in either of the name or address of the Institution. The Institution agrees that the Issuer and the Trustee, if permitted by applicable law, may provide for the re-recording of the Indenture or any other Security Document or the filing or re-filing of continuation statements without the cooperation of the Institution as necessary at the sole cost and expense of the Institution.

Section 8.13. No Further Encumbrances Permitted. The Institution shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against (i) the Facility or any part thereof, or the interest of the Institution in the Facility, except for Permitted Encumbrances, or (ii) the Trust Estate or any portion thereof, the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Security Documents or the interest of the Issuer or the Institution in any Security Document, except with respect to the incurrence of Additional Parity Indebtedness by the School and/or the Institution as permitted hereunder. The Institution covenants that it shall take or cause to be taken all action, including all filing and recording, as may be necessary to ensure that there are no mortgage liens on, or security interests in, the Facility (other than Permitted

Encumbrances) prior to the mortgage liens thereon, and security interests therein, granted by the Mortgage.

Section 8.14. Documents Automatically Deliverable to the Issuer.

(a) The Institution shall immediately notify the Issuer of the occurrence of any Event of Default, or any event that with notice and/or lapse of time would constitute an Event of Default under any Project Document. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Institution and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Institution shall state this fact on the notice.

(b) The Institution shall promptly provide written notice to the Issuer if any Conduct Representation made by the Institution would, if made on any date during the term of the Agreement and deemed made as of such date, be false, misleading or incorrect in any material respect.

(c) Within five (5) Business Days after receipt from the Issuer of any subtenant survey and questionnaire pertaining to the Facility, the Institution shall complete and execute such survey and questionnaire and return the same to the Issuer.

(d) The Institution shall deliver all insurance-related documents required by Sections 8.1(f) and 8.1(g).

(e) Within 120 days after the close of each Fiscal Year during which action was taken by the Institution pursuant to Section 3.4, the Institution shall deliver written notice of the Additional Improvement(s) to the Issuer.

(f) If a removal involving Existing Facility Property having a value in the aggregate exceeding \$25,000 was taken by the Institution pursuant to Section 3.5(a), the Institution shall deliver written notice of such removal to the Issuer within five (5) Business Days following such removal.

(g) Promptly following completion of the Project, but no later than five (5) Business Days following the receipt of any one of a certificate of occupancy, temporary certificate of occupancy, an amended certificate of occupancy or a letter of no objection, the Institution shall deliver to the Issuer the certificate as to Project completion in substantially the form set forth in Exhibit G – “Form of Project Completion Certificate”, together with all attachments required thereunder.

(h) If the Institution shall request the consent of the Issuer under Section 8.9 to any sublease in whole or in part of the Facility, or to any assignment or transfer of this Agreement, the Institution shall submit such request to the Issuer in the form prescribed by the Issuer.

Section 8.15. Requested Documents. Upon request of the Issuer, the Institution shall deliver or cause to be delivered to the Issuer within five (5) Business Days of the date so requested:

(a) a copy of the most recent annual audited financial statements of the Institution and of its subsidiaries, if any (including balance sheets as of the end of the Fiscal Year and the related statement of revenues, expenses and changes in fund balances and, if applicable, income, earnings, and changes in financial position) for such Fiscal Year, prepared in accordance with GAAP and certified by an Independent Accountant;

(b) a certificate of an Authorized Representative of the Institution that the insurance the Institution maintains complies with the provisions of Section 8.1, that such insurance has been in full force and effect at all times during the preceding Fiscal Year, and that duplicate copies of all policies or certificates thereof have been filed with the Issuer and are in full force and effect and the evidence required by Section 8.1(f);

(c) copies of any (x) bills, invoices or other evidences of cost as shall have been incurred in connection with the Project Work, and (y) permits, authorizations and licenses from appropriate authorities relative to the occupancy, operation and use of the Facility;

(d) a certificate of an Authorized Representative of the Institution certifying either (x) the Institution did not take any action described in Section 3.4 resulting in Additional Improvements to the Facility Realty during the preceding Fiscal Year or (y) the Institution did take action or actions described in Section 3.4 resulting in Additional Improvements to the Facility Realty during the preceding Fiscal Year and the Institution complied with the provisions of Section 3.4;

(e) a certificate of an Authorized Representative of the Institution certifying either (x) the Institution did not take any action described in Section 3.5(a) resulting in the removal of Existing Facility Property having a value in the aggregate exceeding \$25,000 during the preceding Fiscal Year or (y) the Institution did take action or actions described in Section 3.5(a) resulting in the removal of Existing Facility Property having a value in the aggregate exceeding \$25,000 during the preceding Fiscal Year and the Institution complied with the provisions of Section 3.5(a);

(f) a certificate of an Authorized Representative of the Institution as to whether or not, as of the close of the immediately preceding Fiscal Year, and at all times during such Fiscal Year, the Institution was in compliance with all the provisions that relate to the Institution in this Agreement and in any other Project Document to which it shall be a party, and if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Institution with respect thereto;

(g) upon twenty (20) days prior request by the Issuer, a certificate of an Authorized Representative of the Institution either stating that to the knowledge of such Authorized Representative after due inquiry there is no default under or breach of any of the terms hereof that exists or, with the passage of time or the giving of notice or both, would constitute an Event of Default hereunder, or specifying each such default or breach of which such Authorized Representative has knowledge;

(h) employment information requested by the Issuer pursuant to Section 8.7(b); and

(i) information regarding non-discrimination requested by the Issuer pursuant to Section 8.8.

Section 8.16. Periodic Reporting Information for the Issuer.

(a) The Institution shall not assert as a defense to any failure of the Institution to deliver to the Issuer any reports specified in this Section 8.16 that the Institution shall not have timely received any of the forms from or on behalf of the Issuer unless, (x) the Institution shall have requested in writing such form from the Issuer not more than thirty (30) days nor less than fifteen (15) days prior to the date due, and (y) the Institution shall not have received such form from the Issuer at least one (1) Business Day prior to the due date. For purposes of this Section 8.16, the Institution shall be deemed to have "received" any such form if it shall have been directed by the Issuer to a website at which such form shall be available. In the event the Issuer, in its sole discretion, elects to replace one or more of the reports required by this Agreement with an electronic or digital reporting system, the Institution shall make its reports pursuant to such system.

(b) Annually, by August 1 of each year, commencing on the August 1 immediately following the Closing Date, until the termination of this Agreement, the Institution shall submit to the Issuer the Annual Employment and Benefits Report relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, in the form prescribed by the Issuer, certified as to accuracy by an officer of the Institution. Upon termination of this Agreement, the Institution shall submit to the Issuer the Annual Employment and Benefits Report relating to the period commencing the date of the last such Report submitted to the Issuer and ending on the last payroll date of the preceding month in the form prescribed by the Issuer, certified as to accuracy by the Institution. Nothing herein shall be construed as requiring the Institution to maintain a minimum number of employees on its respective payroll.

(c) If there shall have been a tenant, other than the Institution, with respect to all or part of the Facility, at any time during the immediately preceding calendar year, the Institution shall file with the Issuer by the next following February 1, a certificate of an Authorized Representative of the Institution with respect to all tenancies in effect at the Facility, in the form prescribed by the Issuer.

(d) If there shall have been a subtenant, other than the Institution, with respect to all or part of the Facility, at any time during the twelve-month period terminating on the immediately preceding June 30, the Institution shall deliver to the Issuer by the next following August 1, a completed Subtenant's Employment and Benefits Report with respect to such twelve-month period, in the form prescribed by the Issuer.

(e) If the Institution shall have had the benefit of a Business Incentive Rate at any time during the twelve-month period terminating on the immediately preceding June 30, the Institution shall deliver to the Issuer by the next following August 1, a completed report required

by the Issuer in connection with the Business Incentive Rate with respect to such twelve-month period, in the form prescribed by the Issuer.

(f) The Institution shall deliver to the Issuer on August 1 of each year, commencing on the August 1 immediately following the Closing Date, a completed location and contact information report in the form prescribed by the Issuer.

(g) The Institution shall deliver to the Issuer a copy of any notice given to the MSRB, or posted to the MSRB's Electronic Municipal Market access system or the Securities and Exchange Commission pursuant to Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission or to the Trustee, promptly after the same is so given.

(h) The School shall promptly deliver to the Issuer written notice if its charter [for the Facility] under the Charter School Act shall have expired or been amended, revoked, surrendered or terminated, of if there are any pending or threatened proceedings to effect same.

Section 8.17. Taxes, Assessments and Charges.

(a) The Institution shall pay when the same shall become due all taxes and assessments, general and specific, if any, levied and assessed upon or against the Trust Estate, the Facility Realty or any part thereof, or interest of the Institution in the Facility, or against any of the loan payments or other payments or other amounts payable hereunder, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Facility Realty, all of which are herein called "**Impositions**". The Institution may pay any Imposition in installments if so payable by law, whether or not interest accrues on the unpaid balance.

(b) In the event the Facility Realty is exempt from Impositions solely due to the Issuer's involvement with the Project and the Facility Realty, the Institution shall pay all Impositions to the appropriate taxing authorities equivalent to the Impositions that would have been imposed on the Facility Realty as if the Issuer had no involvement with the Project and the Facility Realty.

(c) The Institution may at its sole cost and expense contest (after prior written notice to the Issuer and the Trustee), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition, if

(i) such proceeding shall suspend the execution or enforcement of such Imposition against the Trust Estate, the Facility or any part thereof, or interest of the Institution in the Facility, or against any of the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document,

(ii) none of the Trust Estate, the Facility nor any part thereof or interest of the Institution in the Facility, or any of the loan payments or other amounts

payable under this Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, would be in any danger of being sold, forfeited or lost,

(iii) none of the Institution, the Issuer or the Trustee would be in any danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and

(iv) the Institution shall have furnished such security, if any, as may be required in such proceedings or as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents.

Section 8.18. Compliance with Legal Requirements.

(a) The Institution shall not occupy, use or operate the Facility, or allow the Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

(b) At its sole cost and expense, the Institution shall promptly observe and comply with all applicable Legal Requirements (including, without limitation, as applicable, the LW Law, the Prevailing Wage Law, and the Earned Sick Time Act, constituting Chapter 8 of Title 20 of the New York City Administrative Code), whether foreseen or unforeseen, ordinary or extraordinary, that shall now or at any time hereafter be binding upon or applicable to the Institution, the Facility, any occupant, user or operator of the Facility or any portion thereof, and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including zoning variances, special exception and non conforming uses), privileges, franchises and concessions. The Institution will not, without the prior written consent of the Issuer and the Trustee (which consents shall not be unreasonably withheld or delayed), initiate, join in or consent to any private restrictive covenant, zoning ordinance or other public or private restrictions limiting or defining the uses that may be made of the Facility or any part thereof.

(c) The Institution may at its sole cost and expense contest in good faith the validity, existence or applicability of any of the matters described in Section 8.18(b) if (i) such contest shall not result in the Trust Estate, the Facility or any part thereof or interest of the Institution in the Facility, or any of the loan payments or other amounts payable under this Agreement, the Promissory Note or any of the other Project Documents, or the interest of the Issuer or the Institution in any Project Document, being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Institution, the Issuer or the Trustee being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Institution shall have furnished such security, if any, as may be reasonably requested by the Issuer or the Trustee to protect the security intended to be offered by the Security Documents for failure to comply therewith.

Section 8.19. Operation as Approved Facility.

(a) The Institution will not take any action, or suffer or permit any action, if such action would cause the Facility not to be the Approved Facility.

(b) The Institution will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility not to be the Approved Facility.

(c) The Institution will permit the Trustee and its duly authorized agents, at all reasonable times upon written notice to enter upon the Facility and to examine and inspect the Facility and exercise its rights hereunder, under the Indenture and under the other Security Documents with respect to the Facility. The Institution will further permit the Issuer, or its duly authorized agent, upon reasonable notice, at all reasonable times, to enter the Facility, but solely for the purpose of assuring that the Institution is operating the Facility, or is causing the Facility to be operated, as the Approved Facility consistent with the Approved Project Operations and with the corporate purposes of the Issuer.

Section 8.20. Restrictions on Dissolution and Merger.

(a) The Institution covenants and agrees that at all times during the term of this Agreement, it will

(i) maintain its existence as a not-for-profit corporation constituting a Tax-Exempt Organization,

(ii) continue to be subject to service of process in the State,

(iii) continue to be organized under the laws of, or qualified to do business in, the State,

(iv) not liquidate, wind up or dissolve or otherwise dispose of all or substantially all of its property, business or assets (“**Transfer**”) remaining after the Closing Date, except as provided in Section 8.20(b),

(v) not consolidate with or merge into another Entity or permit one or more Entities to consolidate with or merge into it (“**Merge**”), except as provided in Section 8.20(b), and

(vi) not change or permit the change of any Principal of the Institution, or a change in the relative Control of the Institution of any of the existing Principals, except in each case as provided in Section 8.20(c).

(b) Notwithstanding Section 8.20(a), the Institution may Merge or participate in a Transfer if the following conditions are satisfied on or prior to the Merger or Transfer, as applicable:

(i) when the Institution is the surviving, resulting or transferee Entity,

(1) the Institution shall have a net worth (as determined by an Independent Accountant in accordance with GAAP) at least equal to that of the Institution immediately prior to such Merger or Transfer,

(2) the Institution shall continue to be a Tax-Exempt Organization,

(3) the Institution shall deliver to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such action will not cause the interest on the Bonds to become includable in gross income for federal income tax purposes, and

(4) the Institution shall deliver to the Issuer a Required Disclosure Statement with respect to itself as surviving Entity in form and substance satisfactory to the Issuer; or

(ii) when the Institution is not the surviving, resulting or transferee Entity (the “**Successor Institution**”),

(1) the predecessor Institution (the “**Predecessor Institution**”) shall not have been in default under this Agreement or under any other Project Document,

(2) the Successor Institution shall be a Tax-Exempt Organization and shall be solvent and subject to service of process in the State and organized under the laws of the State, or under the laws of any other state of the United States and duly qualified to do business in the State,

(3) the Successor Institution shall have assumed in writing all of the obligations of the Predecessor Institution contained in this Agreement and in all other Project Documents to which the Predecessor Institution shall have been a party,

(4) the Successor Institution shall have delivered to the Issuer a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion,

(5) each Principal of the Successor Institution shall have delivered to the Issuer a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion,

(6) the Successor Institution shall have delivered to the Issuer and the Trustee, in form and substance acceptable to the Issuer and the Trustee, an Opinion of Counsel to the effect that (y) this Agreement and all other Project Documents to which the Predecessor Institution shall be a party constitute the legal, valid and binding obligations of the Successor Institution and each is enforceable in accordance with their respective terms to the same extent as it was enforceable against the Predecessor Institution, and (z) such action does not

legally impair the security for the Holders of the Bonds afforded by the Security Documents,

(7) the Successor Institution shall have delivered to the Issuer and the Trustee, in form and substance acceptable to the Issuer and the Trustee, an opinion of an Independent Accountant to the effect that the Successor Institution has a net worth (as determined in accordance with GAAP) after the Merger or Transfer at least equal to that of the Predecessor Institution immediately prior to such Merger or Transfer, and

(8) the Successor Institution delivers to the Issuer and the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such action will not cause the interest on the Bonds to become includable in gross income for federal income tax purposes.

(c) If there is a change in Principals of the Institution, or a change in the Control of the Institution, the Institution shall deliver to the Issuer prompt written notice thereof (including all details that would result in a change to Exhibit D — “Principals of Institution”) to the Issuer together with a Required Disclosure Statement in form and substance acceptable to the Issuer acting in its sole discretion.

Section 8.21. Preservation of Exempt Status. The Institution agrees that it shall:

(a) not perform any acts, enter into any agreements, carry on or permit to be carried on at the Facility, or permit the Facility to be used in or for any trade or business, which shall adversely affect the basis for the School’s exemption under Section 501 of the Code;

(b) not use more than three percent (3%) of the proceeds of the Bonds or permit the same to be used, directly or indirectly, in any trade or business that constitutes an unrelated trade or business as defined in Section 513(a) of the Code or in any trade or business carried on by any Person or Persons who are not governmental units or Tax-Exempt Organizations;

(c) not directly or indirectly use the proceeds of the Bonds to make or finance loans to Persons other than governmental units or Tax-Exempt Organizations, provided that no loan shall be made to another Tax-Exempt Organization unless such organization is using the funds for a purpose that is not an unrelated trade or business for either the School or the Institution;

(d) not take any action or permit any circumstances within its control to arise or continue, if such action or circumstances, or its expectation on the Closing Date, would cause the Bonds to be “arbitrage bonds” under the Code or cause the interest paid by the Issuer on the Bonds to be subject to Federal income tax in the hands of the Holders thereof; and

(e) use its best efforts to maintain the tax-exempt status of the Bonds.

Section 8.22. Securities Law Status. The Institution covenants that:

(a) the Facility shall be operated (y) exclusively for civic or charitable purposes and (z) not for pecuniary profit, all within the meaning, respectively, of the Securities Act and of the Securities Exchange Act,

(b) no part of the net earnings of the Institution shall inure to the benefit of any person, private stockholder or individual, all within the meaning, respectively, of the Securities Act and of the Securities Exchange Act, and

(c) it shall not perform any act nor enter into any agreement which shall change such status as set forth in this Section.

Section 8.23. Further Assurances. The Institution will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, at the sole cost and expense of the Institution, as the Issuer or the Trustee deems reasonably necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Issuer or the Trustee hereunder, under the Indenture or under any other Security Document.

Section 8.24. Tax Regulatory Agreement.

(a) The Institution shall comply with all of the terms, provisions and conditions set forth in the Tax Regulatory Agreement, including, without limitation, the making of any payments and filings required thereunder.

(b) Promptly following receipt of notice from the Trustee as provided in Section 5.07 of the Indenture that the amount on deposit in the Rebate Fund is less than the Rebate Amount, the Institution shall deliver the amount necessary to make up such deficiency to the Trustee for deposit in the Rebate Fund.

(c) The Institution agrees to pay all costs of compliance with the Tax Regulatory Agreement and costs of the Issuer relating to any examination or audit of the Bonds by the Internal Revenue Service (including fees and disbursements of lawyers and other consultants).

Section 8.25. Compliance with the Indenture. The Institution will comply with the provisions of the Indenture with respect to the Institution. The Trustee shall have the power, authority, rights and protections provided in the Indenture. The Institution will use its best efforts to cause there to be obtained for the Issuer any documents or opinions of counsel required of the Issuer under the Indenture.

Section 8.26. Reporting Information for the Trustee.

(a) The Institution shall furnish or cause to be furnished to the Trustee:

(i) as soon as available and in any event within ninety (90) days after the close of each Fiscal Year, a copy of the annual financial statements of the Institution, including balance sheets as at the end of each such Fiscal Year, and the related statements of income, balances, earnings, retained earnings and changes in financial position for each such Fiscal Year, as audited by the Institution's Independent Accountant and prepared in accordance with GAAP, and

(ii) as soon as available and in any event within ninety (90) days after the close of each quarter of each Fiscal Year, a copy of the unaudited financial statements of the Institution, including balance sheets as at the end of such quarter, and the related statements of income, balances, earnings, retained earnings and changes in financial position for such quarter, prepared in accordance with GAAP, certified by an Authorized Representative of the Institution.

(b) The Institution shall deliver to the Trustee with each delivery of annual financial statements required by Section 8.26(a)(i):

(i) a certificate of an Authorized Representative of the Institution:

(1) as to whether or not, as of the close of such preceding Fiscal Year, and at all times during such Fiscal Year, the Institution was in compliance with all the provisions which relate to the Institution in this Agreement and in any other Project Document to which it shall be a party, and

(2) as to whether or not a Determination of Taxability has occurred, and

(3) if such Authorized Representative shall have obtained knowledge of any default in such compliance or notice of such default or Determination of Taxability, he shall disclose in such certificate such default or defaults or notice thereof and the nature thereof, whether or not the same shall constitute an Event of Default hereunder, and any action proposed to be taken by the Institution with respect thereto, and

(ii) a certificate of an Authorized Representative of the Institution that the insurance it maintains complies with the provisions of Section 8.1 of this Agreement and Section 3.11 of the Mortgage, that such insurance has been in full force and effect at all times during the preceding Fiscal Year, and that duplicate copies of all policies or certificates thereof have been filed with the Issuer and the Trustee and are in full force and effect.

(c) In addition, upon twenty (20) days prior request by the Trustee, the Institution will execute, acknowledge and deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution either stating that to the knowledge of such Authorized Representative after due inquiry no default or breach exists hereunder or specifying each such default or breach of which such Authorized Representative has knowledge.

(d) The Institution shall immediately notify the Trustee of the occurrence of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Project Document. Any notice required to be given pursuant to this subsection shall be signed by an Authorized Representative of the Institution and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken, the Institution shall state this fact on the notice.

(e) The Institution shall deliver to the Trustee all insurance-related documents required by Sections 8.1(f)(i), 8.1(f)(ii), 8.1(f)(iii) and 8.1(g).

(f) The Trustee shall be under no obligation to review the financial statements received under this Section 8.26 for content and shall not be deemed to have knowledge of the contents thereof.

Section 8.27. Continuing Disclosure. The Institution has entered into the Continuing Disclosure Agreement. Notwithstanding any other provision of this Agreement, failure of the Institution to comply with such Continuing Disclosure Agreement shall not be considered an Event of Default; however, the Trustee may (and, at the request of any participating underwriter or the Holders of at least twenty-five percent (25%) aggregate principal amount in Outstanding Bonds, shall, upon receipt of reasonable indemnification for its fees and costs acceptable to it), and any Holder or Beneficial Owner may, take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Institution to comply with its obligations under Continuing Disclosure Agreement and this Section 8.27. The Institution agrees that the Issuer shall have no continuing disclosure obligations.

Section 8.28. Limitations on Incurrence of Additional Indebtedness.

The Institution shall be precluded from incurring Additional Indebtedness that is senior to the lien of the Mortgage on the Mortgage Property and the obligations of the Institution under this Agreement. The Institution may incur Additional Parity Indebtedness only upon providing to the Trustee a certificate of an Authorized Representative of the School, accompanied by a confirming Independent Financial Consultant's Certificate, to the effect that (i) the requirements of Section 2.07 of the Indenture have been met, but this clause (i) applies only if the other Indebtedness takes the form of Additional Bonds, and (ii) either:

(a) (i) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility as determined in the most recent audited financial statements of the School and (ii) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility proposed to be incurred as determined in the most recent audited financial statements of the Institution and the School on a consolidated basis; or

(b) the projected Net Income Available for Debt Service of the School is not less than 120 % of the combined projected Annual Debt Service for currently outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility

proposed to be incurred for three consecutive fiscal years after the earlier of (i) the date the new facility is placed into service or (ii) the year provision for payment of debt service with capitalized interest is expended.

In addition to the foregoing, prior to the incurrence of Additional Parity Indebtedness, the Custodian, the Trustee, the Institution and any issuer of such Additional Parity Indebtedness shall have entered into an intercreditor agreement, satisfactory to all parties, providing for, among other things, the application and disposition of amounts on deposit in the account under the Custody Agreement and any amendment or supplement thereof.

Additional Indebtedness subordinate to the obligations of the Institution and the School under this Agreement and lien on the Mortgaged Property are permitted by this Agreement.

Section 8.29. HireNYC Program.

The Institution shall use its good faith efforts to achieve the hiring and workforce development goals of the HireNYC Program and shall perform the requirements of the HireNYC Program, all as set forth in Exhibit I. The Institution agrees to be bound by each of the provisions of the HireNYC Program set forth in Exhibit I, including without limitation, the payment of any liquidated damages and other enforcement provisions set forth therein.

Section 8.30. [RESERVED]

Section 8.31. M/WBE Program

(a) Institution has submitted to Issuer an M/WBE Participation Proposal which states Institution's proposed plans for participation by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs", together with "MBEs" collectively referred to as "M/WBEs") in the Project Work until the Completion Deadline, and includes the M/WBE Participation Goal, defined as the target percentage of the Project Improvements Investment that will be paid to Certified Firms (as defined in Exhibit O-2). The M/WBE Participation Proposal is attached hereto as Exhibit K-1. No later than forty-five (45) days after the issuance of the Bonds, the Institution will submit to Issuer, for Issuer's review and approval, an M/WBE Participation Plan in the form attached hereto as Exhibit K-1.

(b) The Institution agrees that from the Indemnification Commencement Date until the Completion Deadline, Institution and its successors and assigns shall use good faith efforts to comply with the terms and conditions and reach the M/WBE Participation Goal set forth in Exhibit K-1, and to comply with the M/WBE Program Requirements set forth in Exhibit K-2. The Institution agrees to be bound by each of the provisions in the M/WBE Participation Proposal, M/WBE Participation Plan and the M/WBE Program Requirements, including without limitation, the provision of all Compliance Reports (as defined therein) and the payment of any liquidated damages set forth therein. Notwithstanding any other provision of this Agreement to the contrary, the remedies available to the Issuer or NYCEDC for a violation of the provisions of this Section 8.31 or Exhibits K-1 and K-2, which are incorporated herein by reference, shall be limited to the remedies specified in Exhibit K-2.

Section 8.32. Financial Covenants.

(a) *Minimum Days Cash on Hand Covenant.* The Institution hereby covenants that the Institution shall, on a consolidated basis with the School, beginning with the Fiscal Year ending June 30, 2022, and for so long as any Bonds remain Outstanding, maintain cumulative unrestricted Available Cash Balance sufficient to meet 60 days of Operating Expenses to be tested as of June 30 of each year based on the results of the annual audit of the Institution on a combined basis with the School for such Fiscal Year upon the release of such audit.

If on any testing date the Days Cash on Hand is below that required, the Institution shall retain on an annual basis a minimum 50% of the Excess Net Revenues of the School until such time as it is in compliance. Operating Expenses for purposes calculating Days Cash on Hand will include interest payments on Long-Term Indebtedness. If the School is in violation of the minimum Days Cash on Hand requirement, then the Majority Holders shall have the right to direct the Trustee to require the Institution to engage a Management Consultant acceptable to the Majority Holders at the Institution's expense, which shall deliver a written report within 60 days of engagement to the Trustee and the Institution containing recommendations concerning the School's:

- (i) operations;
- (ii) financing practices and activities, including Short-Term Indebtedness, lease financing, and investment activities;
- (iii) management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution's financial condition;
- (iv) governance and administration practices; and
- (v) other factors relevant to maintaining such compliance.

Upon submission of the Management Consultant's report, the Institution is required to arrange for payment of the amount owed to the Management Consultant and issue a written certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the Institution to comply with any reasonable recommendation of the Management Consultant with respect to items (i) through (v) above.

Notwithstanding anything to the contrary contained herein, the failure to satisfy any of the covenants contained in this Section 8.32(a) shall not constitute or be deemed to constitute an Event of Default under this Agreement, provided the recommendations of the Management Consultant are being followed as certified in writing by the Management Consultant at least bi-monthly during the period of the consultancy and provided to the Trustee.

(b) *Long-Term Debt Service Coverage Ratio.* The Institution hereby covenant that, so long as any Bonds remain Outstanding, it will, on a consolidated basis with the School, maintain a Long-Term Debt Service Coverage Ratio greater than 1.10 to 1.0. Beginning with the Fiscal Year ending June 30, 2022, the Institution shall calculate annually the Long-Term Debt Service Coverage Ratio for the most recently completed Fiscal Year, and shall provide a copy of such calculation to the Trustee at the time of delivery of the annual audited financial statements. If the Long-Term Debt Service Coverage Ratio indicates that the Long-Term Debt Service Coverage Ratio of the Institution and the School for such previous Fiscal Year shall be less than 1.10 to 1.0 but equal to or greater than 1.0 to 1.0, the Institution shall, within thirty (30) days of the date of such calculation, provide the Trustee with a detailed written explanation from an Authorized Representative of the School stating the reasons for the School's failure to achieve the required Long-Term Debt Service Coverage Ratio and their plan for achieving such Long-Term Debt Service Coverage Ratio by the end of the next Fiscal Year. In the event that the Institution are unable to comply with the above Long-Term Debt Service Coverage Ratio requirement within 12 months of the initial non-compliance, then the Majority Holders shall have the right to direct the Trustee to require the Institution to engage, at the Institution's expense, a Management Consultant acceptable to the Majority Holders, which shall deliver a written report within 60 days of engagement to the Trustee containing recommendations concerning either Institution's:

- (i) operations;
- (ii) financing practices and activities, including Short-Term Indebtedness, lease financing, and investment activities;
- (iii) management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution's financial condition;
- (iv) governance and administration practices; and
- (v) other factors relevant to maintaining such compliance.

Upon submission of the Management Consultant's report, the Institution is required to arrange for payment of the amount owed to the Management Consultant and issue a written certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the School to comply with any reasonable recommendation of the Management Consultant with respect to items (i) through (v) above.

Notwithstanding anything to the contrary contained herein, the Institution and the School's failure to maintain a Long-Term Debt Service Coverage Ratio of at least 1.0 to 1.0 on a combined basis shall constitute an Event of Default under this Agreement.

ARTICLE IX

REMEDIES AND EVENTS OF DEFAULT

Section 9.1. Events of Default. Any one or more of the following events shall constitute an "Event of Default" hereunder:

- (a) Failure of the Institution to pay any loan payment that has become due and payable by the terms of Section 4.3(a) or (e) which results in an Event of Default under the Indenture;
- (b) Failure of the Institution to pay any amount (except as set forth in Section 9.1(a)) that has become due and payable or to observe and perform any covenant, condition or agreement on its part to be performed under Sections 5.1, 8.1, 8.2, 8.3, 8.9, 8.11, 8.13, 8.17, 8.18, 8.20, 8.21, 8.22, 8.26, 9.7, 11.2 or 11.3 or Article VI and continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Institution specifying the nature of such failure by the Issuer or the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding;
- (c) Failure of the Institution to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 9.1(a) or (b)) and (i) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Institution specifying the nature of same by the Issuer or the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (ii) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Institution fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice;
- (d) The Institution shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;
- (e) A proceeding or case shall be commenced, without the application or consent of the Institution, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Institution or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy,

insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Institution shall be entered in an involuntary case under such Bankruptcy Code; the terms “dissolution” or “liquidation” of the Institution as used above shall not be construed to prohibit any action otherwise permitted by Section 8.20;

(f) Any representation or warranty made by the Institution (i) in the application and related materials submitted to the Issuer or the initial purchaser(s) of the Bonds for approval of the Project or its financing, or (ii) herein or in any other Project Document, or (iii) in the Letter of Representation and Indemnity Agreement dated the Closing Date and delivered to the Issuer, the Trustee and the initial purchaser(s) of the Initial Bonds, or (iv) in the Tax Regulatory Agreement, or (v) by or on behalf of the Institution or any other Person in any Required Disclosure Statement, or (vi) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall in any case prove to be false, misleading or incorrect in any material respect as of the date made;

(g) The commencement of proceedings to appoint a receiver or to foreclose any mortgage lien on or security interest in the Facility including the Mortgage;

(h) An “Event of Default” under the Indenture or under any other Security Document shall occur and be continuing.

(i) The occurrence of an LW Event of Default.

(j) Failure of the Institution to pay the amount required of it under Section 4.3(a)(vi) when required thereunder.

Section 9.2. Remedies on Default. (a) Whenever any Event of Default referred to in Section 9.1 shall have occurred and be continuing, the Issuer, or the Trustee where so provided, may, take any one or more of the following remedial steps:

(i) The Trustee, as and to the extent provided in Article VIII of the Indenture, may cause all principal installments of loan payments payable under Section 4.3(a) until the Bonds are no longer Outstanding to be immediately due and payable, whereupon the same, together with the accrued interest thereon, shall become immediately due and payable; provided, however, that upon the occurrence of an Event of Default under Section 9.1(d) or (e), all principal installments of loan payments payable under Section 4.3(a) until the Bonds are no longer Outstanding, together with the accrued interest thereon, shall immediately become due and payable without any declaration, notice or other action of the Issuer, the Trustee, the Holders of the Bonds or any other Person being a condition to such acceleration;

(ii) The Issuer or the Trustee may take whatever action at law or in equity as may appear necessary or desirable to collect the loan payments then due and thereafter to become due, or to enforce performance or observance of any obligations, agreements or covenants of the Institution under this Agreement; and

(iii) The Trustee may take any action permitted under the Indenture with respect to an Event of Default thereunder.

(b) Upon the occurrence of a default with respect to any of the Issuer’s Reserved Rights, the Issuer, without the consent of the Trustee or any other Person, may proceed to enforce the Issuer’s Reserved Rights by

(i) bringing an action for damages, injunction or specific performance, and/or

(ii) taking whatever action at law or in equity as may appear necessary or desirable to collect payment of amounts due by the Institution under the Issuer’s Reserved Rights or to enforce the performance or observance of any obligations, covenants or agreements of the Institution under the Issuer’s Reserved Rights.

(c) No action taken pursuant to this Section 9.2 or by operation of law or otherwise shall, except as expressly provided herein, relieve the Institution from the Institution’s obligations hereunder, all of which shall survive any such action.

Section 9.3. Bankruptcy Proceedings. In case proceedings shall be pending for the bankruptcy or for the reorganization of the Institution under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee (other than the Trustee under the Indenture) shall have been appointed for the property of the Institution or in the case of any other similar judicial proceedings relative to the Institution or the creditors or property of the Institution, then the Trustee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Agreement and the Promissory Note, irrespective of whether the principal of the Bonds (and the loan payments payable pursuant to the Promissory Note and Section 4.3(a)) shall have been accelerated by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand for payment hereunder or thereunder, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee allowed in such judicial proceedings relative to the Institution, the creditors or property of the Institution, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute such amounts as provided in the Indenture after the deduction of its charges and expenses. Any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Trustee, and to pay to the Trustee any amount due it for compensation and expenses, including expenses and fees of counsel incurred by it up to the date of such distribution.

Section 9.4. Remedies Cumulative. The rights and remedies of the Issuer or the Trustee under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Issuer or the Trustee allowed by law with respect to any default under this Agreement. Failure by the Issuer or the Trustee to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Institution hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or

other appropriate legal remedy the strict compliance by the Institution with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Institution be continued or repeated.

Section 9.5. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Issuer and/or the Trustee and the Institution or any delay or omission on the part of the Issuer and/or the Trustee in exercising any rights hereunder or under the Indenture or under any other Security Document shall operate as a waiver. To the extent permitted by applicable law, the Institution hereby waives the benefit and advantage of, and covenants not to assert against the Issuer or the Trustee, any valuation, inquisition, stay, appraisal, extension or redemption laws now existing or which may hereafter exist.

Section 9.6. Effect on Discontinuance of Proceedings. In case any proceeding taken by the Issuer or the Trustee under the Indenture or this Agreement or under any other Security Document on account of any Event of Default hereunder or thereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Issuer or the Trustee, then, and in every such case, the Issuer, the Trustee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Issuer and the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 9.7. Agreement to Pay Fees and Expenses of Attorneys and Other Consultants. In the event the Institution should default under any of the provisions of this Agreement, and the Issuer or the Trustee should employ outside attorneys or other consultants or incur other expenses for the collection of loan payments or other amounts payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Institution herein contained or contained in any other Security Document, the Institution agrees that it will on demand therefor pay to the Issuer or the Trustee, as the case may be, the reasonable fees and disbursements of such attorneys or other consultants and such other expenses so incurred.

Section 9.8. Certain Continuing Representations. If at any time during the term of this Agreement, any Conduct Representation made by the Institution would, if made on any date while Bonds are Outstanding and deemed made as of such date, be false, misleading or incorrect in any material respect, then, the Institution shall be deemed to be in default under this Agreement unless the Issuer shall, upon written request by the Institution, either waive such default in writing or consent in writing to an exception to such representation or warranty so that such representation or warranty shall no longer be false, misleading or incorrect in a material respect. Upon the occurrence of any such default, the Issuer shall have the right to require the redemption of the Bonds in accordance with Section 11.3(a).

Section 9.9. Late Delivery Fees.

(a) In the event the Institution shall fail:

(i) to pay the Annual Administrative Fee on the date required under Section 8.3,

(ii) to file and/or deliver any of the documents required of the Institution under Section 8.14 or Section 8.16 by the date therein stated (collectively, the “**Fixed Date Deliverables**”), or

(iii) to deliver to the Issuer any of the documents as shall have been requested by the Issuer of the Institution under Section 8.15 within five (5) Business Days of the date so requested (collectively, the “**Requested Document Deliverables**”),

then the Issuer may charge the Institution on a daily calendar basis commencing with the day immediately following the date on which the payment, filing or delivery was due (the “**Due Date**”), the Per Diem Late Fee.

(b) If the Issuer shall deliver written notice (a “**Notification of Failure to Deliver**”) to the Institution of such failure to deliver on the Due Date the Annual Administrative Fee, a Fixed Date Deliverable and/or a Requested Document Deliverable, and such payment or document shall not be delivered to the Issuer within ten (10) Business Days following delivery by the Issuer to the Institution of the Notification of Failure to Deliver, then, commencing from and including the eleventh (11th) Business Day following the delivery by the Issuer to the Institution of the Notification of Failure to Deliver, the Issuer may charge the Institution on a daily calendar basis the Per Diem Supplemental Late Fee in respect of each noticed failure which shall be in addition to, and be imposed concurrently with, the applicable Per Diem Late Fee.

(c) The Per Diem Late Fee and the Per Diem Supplemental Late Fee shall each, if charged by the Issuer, (i) accrue until the Institution delivers to the Issuer the Annual Administrative Fee, the Fixed Date Deliverable(s) and/or the Requested Document Deliverable(s), as the case may be, and (ii) be incurred on a daily basis for each such Annual Administrative Fee, Fixed Date Deliverable and/or Requested Document Deliverable as shall not have been delivered to the Issuer on the Due Date.

(d) No default on the part of the Institution under Section 8.3, 8.14, 8.15 or 8.16 of this Agreement to deliver to the Issuer an Annual Administrative Fee, a Fixed Date Deliverable or a Requested Document Deliverable shall be deemed cured unless the Institution shall have delivered same to the Issuer and paid to the Issuer all accrued and unpaid Per Diem Fees in connection with the default.

Section 11.10 Issuer Approval of Certain Non-foreclosure Remedies.

Notwithstanding any provision hereof or under any other Security Document, no remedy or other action (whether exercised by the Trustee, the Majority Holders or the Holders of the Bonds), shall have the effect of (x) continuing the exemption from the mortgage recording tax of the Mortgage upon substitution of other indebtedness to be secured by the Mortgage (a “Mortgage Restructuring”), (y) amending or terminating any Mortgage (a “Mortgage Action”) or (z)

substituting for the Institution, a new Entity to either be a counterparty to the Issuer under this Agreement or as a user or lessee of all or a portion of the Facility (a "Substitution Action"), unless, (i) in the case of (x) or (z) described herein, a reasonable description of such Mortgage Restructuring and/or Substitution Action shall have been set forth in a writing delivered to the Issuer by the Institution, together with a request for approval and the Mortgage Restructuring and/or Substitution Action shall be approved in writing by the Issuer, such approval not to be unreasonably withheld or delayed (and which approval may, in the sole discretion of the Issuer, be subject to action by the Issuer's Board of Directors); (ii) in the case of (y) described herein, the Issuer is provided with 30 days' advance written notice by the Institution prior to the effective date of such Mortgage Action, and (iii) in each case, there shall be delivered by the Institution to the Issuer, the Initial Bonds Purchaser, and the Trustee, an opinion of Nationally Recognized Bond Counsel, if required, to the effect that such Mortgage Restructuring, Mortgage Action and/or Substitution Action shall not cause the interest on any Outstanding Bonds to become subject to federal income taxation by reason of either such Mortgage Restructuring, Mortgage Action and/or Substitution Action. For the avoidance of doubt, no Issuer consent is required hereby for (i) the entry into a forbearance agreement by the Trustee, (ii) the exercise by the Trustee of any remedies under, or enforcement of, the Mortgage, including the commencement of a foreclosure action, (iii) the granting of a waiver of a default or Event of Default, to the extent permitted under this Agreement or the Mortgage, by the Trustee, or (iv) the appointment of a receiver for the Institution or for any collateral securing the Bonds.

ARTICLE X

TERMINATION OF THIS AGREEMENT

Section 10.1. Termination of this Agreement.

(a) The Institution shall have the option to cause the redemption or defeasance in whole of all Outstanding Bonds in accordance with the terms set forth in the Indenture.

(b) After full payment of the Bonds or provision for the payment in full thereof having been made in accordance with Article X of the Indenture, but not later than the receipt by the Institution of ten (10) days prior written notice from the Issuer directing termination of this Agreement, the Institution shall terminate this Agreement by giving the Issuer notice in writing of such termination and thereupon such termination shall forthwith become effective, subject, however, to (x) the delivery of those documents referred to in Section 10.2, and (y) the survival of those obligations of the Institution set forth in Section 10.3.

Section 10.2. Actions on Termination. (a) As a condition precedent to the termination of this Agreement, the Institution shall:

(i) pay to the Trustee

(A) the expenses of redemption, the fees and expenses of the Trustee, the Bond Registrar and the Paying Agents and all other amounts due and payable under this Agreement and the other Security Documents, and

(B) any amounts required to be rebated to the Federal government pursuant to the Indenture or the Tax Regulatory Agreement; and

(ii) pay to the Issuer

(A) the fees and expenses of the Issuer, and

(B) all other amounts due and payable under this Agreement and the other Security Documents,

(iii) perform all accrued obligations hereunder or under any other Project Document,

(iv) deliver or cause to be delivered to the Issuer with respect to any mortgage exempt from the payment of mortgage recording tax by reason of the Issuer being a party thereto, an executed satisfaction of such mortgage in recordable form, executed by the mortgagee, and

(v) effect at its own cost and expense the proper recording and filing of all instruments terminating, satisfying and discharging the Security Documents.

(b) Upon the termination of this Agreement in accordance with Section 10.1, the Issuer will deliver or cause to be delivered, at the sole cost and expense of the Institution, to the Institution (i) a termination of this Agreement, and (ii) all necessary documents releasing all of the Issuer's rights and interests in and to any rights of action under this Agreement (other than as against the Institution or any insurer of the insurance policies under Section 8.1), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Issuer) or condemnation awards, with respect to the Facility or any portion thereof. Concurrently with the delivery of such instruments, there shall be delivered by the Issuer (at the sole cost and expense of the Institution) to the Trustee any instructions or other instruments required by Article X of the Indenture to defease and pay the Outstanding Bonds, together with a direction to the Trustee that the Trustee deliver to the Issuer and the Institution a release, satisfaction or termination of the Indenture and of the mortgage lien and security interest of the Mortgage on the Mortgaged Property.

Section 10.3. Survival of Institution Obligations. Upon compliance with Section 10.2, this Agreement and all obligations of the Institution hereunder shall be terminated except the obligations of the Institution under Sections 5.1, 8.2, 8.24, 8.30, 9.2, 9.3, 9.7, 9.9, 12.4, 12.5, 12.6, 12.11, 12.13 and 12.14 shall survive such termination.

ARTICLE XI

CERTAIN PROVISIONS RELATING TO THE BONDS

Section 11.1. Issuance of Additional Bonds. If a Series of Additional Bonds are to be issued pursuant to the Indenture, the Issuer and the Institution shall enter into an amendment to this Agreement, and the Institution shall execute and deliver a new Promissory Note, in each case providing, among other things, for the payment by the Institution of such additional loan payments as are necessary in order to amortize in full the principal of and interest on such Series of Additional Bonds and any other costs in connection therewith.

Any such completion, repair, relocation, replacement, rebuilding, restoration, additions, extensions or improvements shall become a part of the Facility and shall be included under this Agreement to the same extent as if originally included hereunder.

Section 11.2. Determination of Taxability. (a) If any Holder of Bonds receives from the Internal Revenue Service a notice of assessment and demand for payment with respect to interest on any Bond, an appeal may be taken by such Holder at the option of either such Holder or the Institution. If such appeal is taken at the option of the Institution (exercised in accordance with the procedures set forth in the definition of "Determination of Taxability"), all expenses of the appeal including reasonable counsel fees shall be paid by the Institution, and the Institution shall control the procedures and terms relating to such appeal, and such Holder and the Institution shall cooperate and consult with each other in all matters pertaining to any such appeal which the Institution has elected to take, except that no Holder of Bonds shall be required to disclose or furnish any non-publicly disclosed information, including without limitation, financial information and tax returns. Before the taking of any appeal which the Institution has elected to take, however, the Bondholder shall have the right to require the Institution to pay the tax assessed and conduct the appeal as a contest for reimbursement.

(b) The obligations of the Institution to make the payments provided for in this Section shall be absolute and unconditional, and the failure of the Issuer, the Trustee or any other Person to execute or deliver or cause to be delivered any documents or to take any action required under this Agreement or otherwise shall not relieve the Institution of its obligation under this Section.

(c) Not later than one hundred twenty (120) days following a Determination of Taxability, the Institution shall pay to the Trustee an amount sufficient, when added to the amounts then in the Bond Fund and available for such purpose, to retire and redeem all Bonds then Outstanding, in accordance with the Indenture. The Bonds shall be redeemed in whole unless redemption of a portion of the Bonds Outstanding would have the result that interest payable on the Bonds remaining Outstanding after such redemption would not be includable in the gross income of any Holder of a Bond. In such event, the Bonds shall be redeemed in such amount as is deemed necessary in the opinion of Nationally Recognized Bond Counsel to accomplish that result.

Section 11.3. Mandatory Redemption of Bonds as Directed by the Issuer. (a) Upon the determination by the Issuer that (i) the Institution is operating the Facility or any

portion thereof, or is allowing the Facility or any portion thereof to be operated, not for the Approved Project Operations in accordance with this Agreement and the failure of the Institution within thirty (30) days of the receipt by the Institution of written notice of such noncompliance from the Issuer to cure such noncompliance together with a copy of such resolution (a copy of which notice shall be sent to the Trustee), (ii) the Institution, any Principal of the Institution or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Institution has committed a material violation of a material Legal Requirement and the failure of the Institution within thirty (30) days of the receipt by the Institution of written notice of such determination from the Issuer to cure such material violation (which cure, in the case of a Principal who shall have committed the material violation of a material Legal Requirement, may be effected by the removal of such Principal), (iii) as set forth in Section 9.8, any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (iv) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, the Institution covenants and agrees that it shall, no later than ten (10) days following the termination of such thirty (30) day period, pay to the Trustee advance loan payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of 100% of the aggregate principal amount of the Outstanding Bonds together with interest accrued thereon to the redemption date. The Issuer shall give prior written notice of the meeting at which the Board of Directors of the Issuer are to consider such resolution to the Institution and the Trustee, which notice shall be no less than fifteen (15) days prior to such meeting.

(b) In the event the Institution fails to obtain or maintain the liability insurance with respect to the Facility required under Section 8.1, and the Institution shall fail to cure such circumstance within ten (10) days of the receipt by the Institution of written notice of such noncompliance from the Issuer and a demand by the Issuer on the Institution to cure such noncompliance, upon notice or waiver of notice as provided in the Indenture, the Institution shall pay to the Trustee advance loan payments in immediately available funds in an amount sufficient to redeem the Bonds Outstanding in whole at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption.

Section 11.4. Mandatory Redemption As a Result of Project Gifts or Grants.

(a) If, prior to completion of the construction of a component of the Project, the Institution receives any gift or grant required by the terms thereof to be used to pay any item which is a cost of such component of the Project, the Institution shall apply such gift or grant to completion of the construction of such component of the Project. In the event that the amount of such gift or grant is in excess of the amount necessary to complete such component of the Project, and if proceeds of the Bonds (i) have been expended on such component of the Project more than eighteen (18) months prior to the receipt of such gift or grant, or (ii) (A) have been expended on such component of the Project not more than eighteen (18) months prior to the receipt of such gift or grant and (B) the aggregate amount of Project Costs not otherwise provided for is less than the amount of Bond proceeds expended on such component of the Project, the Institution shall cause the Trustee to effect a redemption of Bonds in a principal amount equal to such excess only to the extent to which proceeds of the Bonds were expended for such component.

(b) If, after completion of the construction of a component of the Project, the Institution receives any gift or grant which prior to such completion it reasonably expected to receive and which is required by the terms thereof to be used to pay any item which is a cost of such component of the Project, and if proceeds of the Bonds (i) have been expended on such component of the Project more than eighteen (18) months prior to the earlier of the date on which Bond proceeds were expended thereon or the placed in service date of such component, or (ii) (A) have been expended on such component of the Project not more than eighteen (18) months prior to the earlier of the date on which Bond proceeds were expended thereon or the placed in service date of such component and (B) the aggregate amount of Project Costs not otherwise provided for is less than the amount of Bond proceeds expended on such component of the Project, the Institution shall, to the extent not inconsistent with the terms of such gift or grant, deposit an amount equal to such gift or grant with the Trustee for deposit into the Redemption Account of the Bond Fund and cause the Trustee to effect a redemption of the Bonds in a principal amount equal to such gift or grant, but only to the extent to which proceeds of Bonds were expended for such component.

(c) The Institution shall, prior to directing the redemption of any Bonds in accordance with this Section 11.4, consult with Nationally Recognized Bond Counsel for advice as to a manner of selection of Bonds for redemption that will not affect the exclusion of interest on any Bonds then Outstanding from gross income for federal income tax purposes.

Section 11.5. Right to Cure Issuer Defaults. The Issuer hereby grants the Institution full authority for account of the Issuer to perform any covenant or obligation the non-performance of which is alleged to constitute a default in any notice received by the Institution, in the name and stead of the Issuer, with full power of substitution.

Section 11.6. Prohibition on the Purchase of Bonds. Neither the Institution nor any related person thereto shall purchase any Bonds for its own account during the term of this Agreement, whether by direct negotiation through a broker or dealer, or by making a tender offer to the Holders thereof, or otherwise.

Section 11.7. Investment of Funds. Any moneys held as part of the Rebate Fund, the Earnings Fund, the Project Fund, the Bond Fund, the Debt Service Reserve Fund or the Renewal Fund or in any special fund provided for in this Agreement or in the Indenture to be invested in the same manner as in any said Fund shall, at the written request of an Authorized Representative of the Institution, be invested and reinvested by the Trustee as provided in the Indenture (but subject to the provisions of the Tax Regulatory Agreement). Neither the Issuer nor the Trustee nor any of their members, directors, officers, agents, servants or employees shall be liable for any depreciation in the value of any such investments or for any loss arising therefrom.

Interest and profit derived from such investments shall be credited and applied as provided in the Indenture, and any loss resulting from such investments shall be similarly charged.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Force Majeure. In case by reason of *force majeure* either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than (i) the obligations of the Institution to make the loan payments or other payments required under the terms hereof, or (ii) the obligations of the Institution to comply with Section 5.3, 8.1 or 8.2), so far as they are affected by such *force majeure*, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term “*force majeure*” shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, endemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, war, terrorism, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other act or event so long as such act or event is not reasonably foreseeable and is not reasonably within the control of the party claiming such inability. Notwithstanding anything to the contrary herein, in no event shall the Institution’s financial condition or inability to obtain financing constitute a *force majeure*. It is understood and agreed that the requirements that any *force majeure* shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be satisfied in the event of a strike or other industrial disturbance even though existing or impending strikes or other industrial disturbances could have been settled by the party claiming a *force majeure* hereunder by acceding to the demands of the opposing person or persons.

The Institution shall promptly notify the Issuer and the Trustee upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Institution shall also promptly notify the Issuer and the Trustee upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Issuer or the Trustee, and the Issuer or the Trustee shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Institution.

Section 12.2. Assignment of Mortgage and Pledge under Indenture. Pursuant to (i) the Mortgage, the Institution will mortgage its interest in the Mortgaged Property to the Issuer and the Trustee as security for the Bonds and the obligations of the Institution under the Security Documents, (ii) the Assignment of Mortgage, the Issuer will assign all of its right, title and interest in the Mortgage to the Trustee, and (iii) the Indenture, the Issuer will pledge and assign the Promissory Note and the loan payments and certain other moneys receivable under this Agreement to the Trustee as security for payment of the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on the Bonds. The Institution hereby

consents to the Issuer’s pledge and assignment to the Trustee of all its right, title and interest in the Mortgage, the Promissory Note and this Agreement (except for the Issuer’s Reserved Rights).

Section 12.3. Amendments. This Agreement may be amended only with the concurring written consent of the Trustee given in accordance with the provisions of the Indenture and only by a written instrument executed by the parties hereto.

Section 12.4. Service of Process. The Institution represents that it is subject to service of process in the State and covenants that it will remain so subject until all obligations, covenants and agreements of the Institution under this Agreement shall be satisfied and met. If for any reason the Institution should cease to be so subject to service of process in the State, the Institution hereby irrevocably consents to the service of all process, pleadings, notices or other papers in any judicial proceeding or action by designating and appointing [Executive Director] of the Institution at 677 East 141st Street, Bronx, New York 10454, as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Institution as a result of any of its obligations under this Agreement. If such appointed agent shall cease to act or otherwise cease to be subject to service of process in the State, the Institution hereby irrevocably designates and appoints the Secretary of State of the State of New York as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Institution as a result of any of its obligations under this Agreement; provided, however, that the service of such process, pleadings, notices or other papers shall not constitute a condition to the Institution’s obligations hereunder.

For such time as any of the obligations, covenants and agreements of the Institution under this Agreement remain unsatisfied, the Institution’s agent(s) designated in this Section 12.4 shall accept and acknowledge on the Institution’s behalf each service of process in any such suit, action or proceeding brought in any such court. The Institution agrees and consents that each such service of process upon such agents and written notice of such service to the Institution in the manner set forth in Section 12.5 shall be taken and held to be valid personal service upon the Institution whether or not the Institution shall then be doing, or at any time shall have done, business within the State and that each such service of process shall be of the same force and validity as if service were made upon the Institution according to the laws governing the validity and requirements of such service in the State, and waives all claim of error by reason of any such service.

Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Institution or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Institution.

Section 12.5. Notices. Any notice, demand, direction, certificate, Opinion of Counsel, request, instrument or other communication authorized or required by this Agreement to be given to or filed with the Issuer, the Institution, the Trustee, the DCA or the Comptroller shall be sufficient if sent (i) by return receipt requested or registered or certified United States mail, postage prepaid, (ii) by a nationally recognized overnight delivery service for overnight delivery, charges prepaid or (iii) by hand delivery, addressed, as follows:

- (1) if to the Issuer, to
- Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: General Counsel
- with a copy to
- Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: Executive Director
- (2) if to the Institution, to
- Friends of Academic Leadership CS, LLC
c/o Academic Leadership Charter School
677 East 141st Street
Bronx, New York 10454
Attention: [Executive Director]
- with a copy to
- Harris Beach PLLC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.
- if to the School, to
- (3) Academic Leadership Charter School
- 677 East 141st Street
Bronx, New York 10454
Attention: Norma Hurwitz, Executive Director
- with a copy to
- Harris Beach PLLC
333 Earle Ovington Blvd
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.
- and

- (4) if to the Trustee, to
- The Bank of New York Mellon
101 Barclays Street, Floor 7W
New York, New York 10286
Attention: Corporate Trust Administration
- (5) if to the DCA, to
- Department of Consumer Affairs of The City of New York
42 Broadway
New York, New York 10004
Attention: Living Wage Division
- (6) if to the Comptroller, to
- Office of the Comptroller of The City of New York
One Centre Street
New York, New York 10007
Attention: Chief, Bureau of Labor Law

The Issuer, the Institution, the Trustee, the DCA and the Comptroller may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted for overnight delivery by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder.

Section 12.6. Consent to Jurisdiction. The Institution irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of this Agreement or any other Project Document, the Facility, the Project, the relationship between the Issuer and the Institution, the Institution's ownership, use or occupancy of the Facility and/or any claim for injury or damages may be brought in the courts of record of the State in New York County or the United States District Court for the Southern District of New York; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; (iii) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (iv) waives and relinquishes any rights it might otherwise have (A) to move to dismiss on grounds of *forum non conveniens*, (B) to remove to any federal court other than the United States District Court for the Southern District of New York, and (C) to move for a change of venue to a New York State Court outside New York County.

If the Institution commences any action against the Issuer or the Trustee in a court located other than the courts of record of the State in New York County or the United States District Court for the Southern District of New York, the Institution shall, upon request from the Issuer or the Trustee, either consent to a transfer of the action or proceeding to a court of record

of the State in New York County or the United States District Court for the Southern District of New York, or, if the court where the action or proceeding is initially brought will not or cannot transfer the action, the Institution shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of record of the State in New York County or the United States District Court for the Southern District of New York.

Section 12.7. Prior Agreements Superseded. This Agreement shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Issuer and the Institution relating to the Facility, other than any other Project Document.

Section 12.8. Severability. If any one or more of the provisions of this Agreement shall be ruled illegal or invalid by any court of competent jurisdiction, the illegality or invalidity of such provision(s) shall not affect any of the remaining provisions hereof, but this Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 12.9. Effective Date; Counterparts. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written. This Agreement was delivered on the Closing Date. This Agreement shall become effective upon its delivery on the Closing Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.10. Binding Effect. This Agreement shall inure to the benefit of the Issuer, the Trustee, the Bond Registrar, the Paying Agents, the Indemnified Parties and the Holders of the Bonds, and shall be binding upon the Issuer and the Institution and their respective successors and assigns.

Section 12.11. Third Party Beneficiaries. (a) The Issuer and the Institution agree that this Agreement is executed in part to induce the purchase by others of the Bonds and for the further securing of the Bonds, and accordingly all covenants and agreements on the part of the Issuer and the Institution as set forth in this Agreement are hereby declared to be for the benefit of the Holders from time to time of the Bonds and may be enforced as provided in Article VIII of the Indenture on behalf of the Bondholders by the Trustee.

(b) Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the Issuer, the Trustee, the Bond Registrar, the Institution, the Paying Agents and the Holders of the Bonds any right, remedy or claim under or by reason of this Agreement or any covenant, condition or stipulation thereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Trustee, the Bond Registrar, the Institution, the Paying Agents and the Holders of the Bonds.

Section 12.12. Law Governing. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without regard or giving effect to the principles of conflicts of laws thereof.

Section 12.13. Waiver of Trial by Jury. The Institution does hereby expressly waive all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or any matters whatsoever arising out of or in any way connected with this Agreement, the Institution's obligations hereunder, the Facility, the Project, the relationship between the Issuer and the Institution, the Institution's ownership, use or occupancy of the Facility and/or any claim for injury or damages.

The provision of this Agreement relating to waiver of a jury trial shall survive the termination or expiration of this Agreement.

Section 12.14. Recourse Under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Issuer contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Issuer, and not of any member, director, officer, employee or agent of the Issuer or any natural person executing this Agreement on behalf of the Issuer in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent of the Issuer or any natural person executing this Agreement on behalf of the Issuer. No recourse shall be had for the payment of the principal of, redemption premium, if any, Sinking Fund Installments for, Purchase Price or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Issuer or any natural person executing the Bonds. In addition, in the performance of the agreements of the Issuer herein contained, any obligation the Issuer may incur for the payment of money shall not subject the Issuer to any pecuniary or other liability or create a debt of the State or the City, and neither the State nor the City shall be liable on any obligation so incurred and any such obligation shall be payable solely out of amounts payable to the Issuer by the Institution hereunder and under the Promissory Note.

Section 12.15. Legal Counsel; Mutual Drafting. Each party acknowledges that this Agreement is a legally binding contract and that it was represented by legal counsel in connection with the drafting, negotiation and preparation of this Agreement. Each party acknowledges that it and its legal counsel has cooperated in the drafting, negotiation and preparation of this Agreement and agrees that this Agreement and any provision hereof shall be construed, interpreted and enforced without regard to any presumptions against the drafting party. Each party hereby agrees to waive any rule, doctrine or canon of law, including without limitation, the *contra preferentum* doctrine that would require interpretation of any ambiguities in this Agreement against the party that has drafted it.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Issuer has caused its corporate name to be subscribed unto this Loan Agreement by its duly authorized Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel and the Institution has caused its name to be hereunto subscribed by its duly Authorized Representative, all being done as of the year and day first above written.

BUILD NYC RESOURCE CORPORATION

By: _____
Krishna Omolade
Executive Director

**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC,
By: ACADEMIC LEADERSHIP CHARTER
SCHOOL,** its sole member

By: _____
Norma Hurwitz
Executive Director

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On the ____ day of _____, in the year two thousand and twenty-one, before me, the undersigned, personally appeared Krishna Omolade, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public/Commissioner of Deeds

[SIGNATURE PAGE TO LOAN AGREEMENT]

[NOTARY PAGE TO LOAN AGREEMENT]

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On the ____ day of _____, in the year two thousand and twenty-one, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to me the individual whose name is subscribed to the within instrument and acknowledged to me that [he][she] executed the same in [his][her] capacity, and that by [his][her] signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

APPENDICES

[NOTARY PAGE TO LOAN AGREEMENT]

EXHIBIT A

DESCRIPTION OF THE LAND

ALL that certain plot piece or parcel of land, with the buildings and improvements thereon erected situate, lying and being in the Borough and County of Bronx, City and State of New York bounded and described as follows:

BEGINNING at a point on the southerly side of East 139th Street, distant 231.50 feet westerly from the corner formed by the intersection of the westerly side of Willis Avenue with the southerly side of East 139th Street;

RUNNING THENCE southerly, at right angles with East 139th Street, 100.00 feet to the center line of the block between East 138th Street and East 139th Street;

THENCE westerly, along the center line of said Block 125.00 feet;

THENCE northerly, at right angles with East 139th Street, 100.00 feet to the southerly side of East 139th Street;

THENCE easterly, along the southerly side of East 139th Street, 125.00 feet to the point or place of BEGINNING.

EXHIBIT B

DESCRIPTION OF THE FACILITY PERSONALTY

EXHIBIT C

AUTHORIZED REPRESENTATIVE

Name

Title

Signature

EXHIBIT D

PRINCIPALS OF THE INSTITUTION

Name

Title

EXHIBIT E

PROJECT COST BUDGET

| | <u>Bond Proceeds</u> | <u>Funds of Institution*</u> | <u>Total</u> |
|----------------------------------|----------------------|------------------------------|--------------|
| Land and Building Acquisition | \$ | \$ | \$ |
| Renovation/Building Improvements | | | |
| Project Improvements Investment | | | |
| Equipment | | | |
| Fees/Other Soft Costs | | | |
| Total | \$ | \$ | \$ |

* Column should be revised if other loans or sources of funds comprise sources for Project Costs.

EXHIBIT F

FORM OF REQUIRED DISCLOSURE STATEMENT

The undersigned, an authorized representative of Friends of Academic Leadership CS LLC, a limited liability company organized and existing under the laws of the State of New York, DOES HEREBY CERTIFY, REPRESENT AND WARRANT to Build NYC Resource Corporation (the "Issuer") pursuant to [Section 8.20] [Section 8.9] of that certain Loan Agreement, dated as of June 1, 2021, between the Issuer and _____, a not-for-profit corporation organized and existing under the laws of the State of _____ (the "Loan Agreement") THAT:

[if being delivered pursuant to 8.20 of the Loan Agreement] None of the surviving, resulting or transferee Entity, any of the Principals of such Entity, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

[if being delivered pursuant to 8.9 of the Loan Agreement] None of the assignee, transferee or lessee Entity, any of the Principals of such Entity, or any Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Entity:

(1) _____ is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with the Issuer, the NYCIDA, the NYCEDC or the City, unless such default or breach has been waived in writing by the Issuer, the NYCIDA, the NYCEDC or the City, as the case may be;

(2) _____ has been convicted of a misdemeanor related to truthfulness and/or business conduct in the past five (5) years;

(3) _____ has been convicted of a felony in the past ten (10) years;

(4) _____ has received formal written notice from a federal, state or local governmental agency or body that such Person is currently under investigation for a felony criminal offense; or

(5) _____ has received written notice of default in the payment to the City of any taxes, sewer rents or water charges, which have not been paid, unless such default is currently being contested with due diligence in proceedings in court or other appropriate forum.

As used herein, the following capitalized terms shall have the respective meanings set forth below:

"City" shall mean The City of New York.

"Control" or "Controls" shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting

securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

“Entity” shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

“Governing Body” shall mean, when used with respect to any Person, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Person are exercised.

“NYCEDC” shall mean New York City Economic Development Corporation, a New York not-for-profit corporation, and any successor thereof.

“NYCIDA” shall mean the New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

“Person” shall mean an individual or any Entity.

“Principal(s)” shall mean, with respect to any Entity, the most senior three officers of such Entity, any Person with a ten percent (10%) or greater ownership interest in such Entity, and any Person as shall have the power to Control such Entity, and “principal” shall mean any of such Persons.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of _____, 20__.

[NAME OF CERTIFYING ENTITY]

By: _____
Name:
Title:

EXHIBIT G

FORM OF PROJECT COMPLETION CERTIFICATE OF INSTITUTION AS REQUIRED BY SECTIONS 3.2(f) AND 8.14(g) OF THE LOAN AGREEMENT

The undersigned, an Authorized Representative (as defined in the Loan Agreement referred to below) of Friends of Academic Leadership CS LLC, a limited liability company organized and existing under the laws of the State of New York (the “Institution”), HEREBY CERTIFIES that this Certificate is being delivered in accordance with the provisions of Section 3.2(f) and 8.14(g) of that certain Loan Agreement, dated as of June 1, 2021 (the “Loan Agreement”), between Build NYC Resource Corporation (the “Issuer”) and the Institution, and FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Loan Agreement):

(i) the Project Work is finished and has been completed substantially in accordance with the plans and specifications therefor;

(ii) attached hereto is a copy of one of the following (check only one and attach a copy of the indicated document):

- ☐ [certificate of occupancy, or
- ☐ temporary certificate of occupancy, or
- ☐ amended certificate of occupancy, or
- ☐ letter of no objection;]

(iii) there is no certificate, license, permit, written approval or consent or other document required to permit the occupancy, operation and use of the Facility as the Approved Facility that has not already been obtained or received, except for such certificates, licenses, permits, authorizations, written approvals and consents that will be obtained in the ordinary course of business and the issuance of which are ministerial in nature;

(iv) the Facility is ready for occupancy, use and operation for the Approved Project Operations in accordance with all applicable laws, regulations, ordinances and guidelines;

(v) check as applicable:

- ☐ all costs for Project Work have been paid, or
- ☐ all costs for Project Work have been paid except for
 - ☐ amounts not yet due and payable (attach itemized list) and/or
 - ☐ amounts the payments for which are being contested in good faith (attach itemized list with explanations); and

(vi) releases of mechanics' liens have been obtained from the general contractor and from all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project Work, except for releases-of-liens pertinent to (y) amounts not yet due and payable, or (z) any amount the payment of which is being contested in good faith; copies of all such releases of mechanics' liens are attached hereto.

[ATTACH to this Certificate copies of all such releases of liens.]

Notwithstanding anything herein or elsewhere that may be inferred to the contrary, the undersigned hereby understands and agrees on behalf of the Institution as follows: (a) the Issuer does not waive its right to require delivery of releases-of-liens in connection with the costs of Project Work; (b) the Issuer does not waive its right under the Loan Agreement to demand the discharge of mechanics' and materialmen's liens encumbering the Facility Realty, whether by bond or otherwise; and (c) the Certificate shall be deemed incomplete if, in the Issuer's sole discretion, the Issuer has unreasonably failed to bond or otherwise discharge any liens in respect of the costs of Project Work when payment for the same is due.

This Certificate is given without prejudice to any rights of the Institution against third parties existing on the date hereof or which may subsequently come into being and no Person other than the Issuer may benefit from this Certificate.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this ____ day of _____, ____.

**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC**

By: _____
Name:
Title:

Acknowledged and Agreed:

ACADEMIC LEADERSHIP CHARTER SCHOOL

By: _____
Name:
Title:

Acknowledged and Agreed:

PETER GISOLFI ASSOCIATES,
ARCHITECTS-LANDSCAPE ARCHITECTS LLP

By: _____
Name:
Title:

EXHIBIT H

FORM OF PROMISSORY NOTE

AFTER THE ENDORSEMENT AS HEREON PROVIDED AND PLEDGE OF THIS PROMISSORY NOTE, THIS PROMISSORY NOTE MAY NOT BE ASSIGNED, PLEDGED, ENDORSED OR OTHERWISE TRANSFERRED EXCEPT TO AN ASSIGNEE OR SUCCESSOR OF THE TRUSTEE IN ACCORDANCE WITH THE INDENTURE, BOTH OF WHICH ARE REFERRED TO HEREIN.

\$ _____

June __, 2021

PROMISSORY NOTE

FOR VALUE RECEIVED, FRIENDS OF ACADEMIC LEADERSHIP CS LLC, a not-for-profit corporation organized and existing under the laws of the State of New York (the "Borrower"), by this promissory note hereby promises to pay to the order of BUILD NYC RESOURCE CORPORATION (the "Issuer"), the principal sum of Seventeen Million, Seven Hundred and Seventy Thousand and 00/100 Dollars (\$17,770,000.00), together with interest on the unpaid principal amount hereof, from the date of the issuance and delivery of the Initial Bonds (as such term is hereinafter defined) until paid in full, at a rate per annum equal to the respective rates of interest borne from time to time by the Initial Bonds, together with all Sinking Fund Installments and Redemption Price payments as and when due. All capitalized terms used but not defined in this Promissory Note shall have the respective meanings assigned such terms by the Indenture (as hereinafter defined) or by the Loan Agreement (as hereinafter defined). All such payments shall be made in funds which shall be immediately available on the due date of such payments and in lawful money of the United States of America and shall be paid at the designated corporate trust office of the Trustee or its successor under the Indenture.

The principal amount, interest, Sinking Fund Installments and Redemption Price shall be payable on the dates and in the amounts that principal of, interest, Sinking Fund Installments and Redemption Price on the Initial Bonds are payable under the Loan Agreement (as defined below), subject to prepayments and credits to the extent provided in the Indenture and the Loan Agreement.

This promissory note is the "Promissory Note" referred to in the Loan Agreement, dated as of June 1, 2021 (as the same may be amended or supplemented, the "Loan Agreement"), between the Borrower and the Issuer, the terms, conditions and provisions of which are hereby incorporated by reference.

This Promissory Note and the payments required to be made hereunder are irrevocably assigned, without recourse, representation or warranty, and pledged to the Trustee under the Indenture of Trust, dated as of June 1, 2021 (as the same may be amended or supplemented, the "Indenture"), by and between the Issuer and the Trustee, and such payments will be made directly to the Trustee for the account of the Issuer pursuant to such assignment. Such assignment is made as security for the payment of the Issuer's \$17,770,000 in aggregate principal amount of Revenue Bonds (Academic Leadership Charter School Project), Series 2021 (the "Initial Bonds"), issued by the Issuer pursuant to the Indenture. All the terms, conditions

and provisions of the Indenture, the Loan Agreement and the Initial Bonds are hereby incorporated as a part of this Promissory Note.

The Borrower may at its option, and may under certain circumstances be required to, prepay together with accrued interest, all or any part of the amounts due under this Promissory Note, as provided in the Loan Agreement and the Indenture.

Presentation, demand, protest and notice of dishonor are hereby expressly waived by the Borrower.

The Borrower hereby promises to pay costs of collection and attorneys' fees in case of default on this Promissory Note.

This Promissory Note shall be governed by, and construed in accordance with, the laws of the State of New York without regard to conflicts of law principles thereof.

By: _____
Name:
Title:

ENDORSEMENT

Pay to the order of The Bank of New York Mellon, without recourse, as Trustee under the Indenture referred to in the within mentioned Loan Agreement, as security for the Initial Bonds issued under such Indenture. This endorsement is given without any warranty as to the authority or genuineness of the signature of the maker of the Promissory Note.

BUILD NYC RESOURCE CORPORATION

By: _____
Krishna Omolade
Executive Director

Dated: June 16, 2021

EXHIBIT I

HireNYC

The Institution must collaborate with the New York City Department of Small Business Services or such other a New York City agency as may be designated by NYCEDC in a notice to the Institution (“**Designated City Agency**”). The Designated City Agency will assist the Institution in implementing the HireNYC Program including the screening of candidates from the target population (“**Target Population**”), defined as persons who have an income that is below two hundred percent (200%) of the poverty level as determined by the New York City Center for Economic Opportunity (a description of the income level meeting this threshold for each household size is available at http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2013.pdf). The HireNYC Program will be in effect for a period of eight (8) years from the Operations Commencement Date (“**HireNYC Program Term**”).

The HireNYC Program will apply to the Institution, its successors and assigns, and to all tenants (which term also includes subtenants) at the Facility during the HireNYC Program Term.

I. Goals. The HireNYC Program includes, at a minimum, the following hiring and workforce development goals (collectively, the “**Goals**”):

| | |
|-------------------|---|
| Hiring Goal: | Fifty percent (50%) of all new permanent jobs created in connection with the Facility (including jobs created by tenants, but excluding jobs relocated from other sites) will be filled by members of the Target Population referred by the Designated City Agency for a period beginning, for each employer, at commencement of business operations and continuing through the end of the HireNYC Program Term. Notwithstanding the foregoing, the Hiring Goal shall only apply to hiring on occasions when the Institution (or a tenant) is hiring for five (5) or more permanent jobs. |
| Retention Goal: | Forty percent (40%) of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine (9) months from date of hire. |
| Advancement Goal: | Thirty percent (30%) of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one (1) year of date of hire. |
| Training Goal: | Cooperation with NYCEDC and the Designated City Agency to provide skills-training or higher education opportunities to members of the Target Population. |

II. Program Requirements. HireNYC Program includes all of the following requirements:

1. Designation of a workforce development liaison by the Institution to interact with NYCEDC and the Designated City Agency during the course of the HireNYC Program.

2. Commitment by the Institution to do the following:

- a. use good faith efforts to achieve the Goals;
- b. notify NYCEDC six (6) weeks prior to commencing business operations;
- c. with respect to initial hiring for any new permanent jobs associated with the commencement of business at the Facility (but only if initial hiring is for five (5) or more permanent jobs):
 - (i) provide NYCEDC and the Designated City Agency with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least three (3) months before commencing hiring; and
 - (ii) consider only applicants referred by the Designated City Agency for the first ten (10) business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
- d. with respect to ongoing hiring on occasions when hiring for five (5) or more permanent jobs:
 - (i) provide NYCEDC and the Designated City Agency with the approximate number and type of jobs that will become available, and for each job type a description of the basic job qualifications, at least one (1) month before commencing hiring or as soon as information is available, but in all cases not later than one (1) week before commencing hiring; and
 - (ii) consider only applicants referred by the Designated City Agency for the first five business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
- e. notify NYCEDC thirty (30) days prior to execution of any tenant lease at the Facility;
- f. provide NYCEDC with one (1) electronic copy of all tenant leases at the project location within fifteen (15) days of execution;
- g. submit to NYCEDC an annual HireNYC Employment Report in the form provided by NYCEDC (or quarterly reports at the discretion of NYCEDC);
- h. cooperate with annual site visits and, if requested by NYCEDC, employee satisfaction surveys relating to employee experience with the Institution's HireNYC Program;
- i. provide information related to the HireNYC Program and the hiring process to NYCEDC upon request; and
- j. allow information collected by NYCEDC and the Designated City Agency to be included in public communications, including press releases and other media events.

III. General Requirements. The following are general requirements of the HireNYC Program

1. The Institution is required to incorporate the terms of its HireNYC Program into all tenant leases obligating tenants to comply with the Goals and other requirements in the

Institution's HireNYC Program to the same extent as the Institution is required to comply with such Goals and other requirements.

2. Enforcement. In the event NYCEDC determines that the Institution or any of its tenants has violated any of the HireNYC Program requirements, including, without limitation, a determination that the Institution or any of its tenants, has failed to use good faith efforts to fulfill the Goals, NYCEDC shall notify the Issuer of the violation and the Issuer may (1) assess liquidated damages set forth immediately below; and/or (2) assert any other right or remedy it has under the Agreement.
3. Liquidated Damages. If the Institution or any of its tenants, does any of the following:
 - (i) fail to comply with its obligations set forth in Section II(2) clauses (a)(with respect to the Hiring Goal), (c), and/or (d), and as a result the Designated City Agency was unable to refer applicants or participate in the hiring process as required by the program; or
 - (ii) fail to comply with its obligations set forth in Section II(2) clauses, (f), (g), (h), (i), and/or (j) and such failure shall continue for a period of thirty (30) days after receipt of notice from NYCEDC,

then, in the case of clause (i), the Issuer may assess liquidated damages in the amount of \$2,500 for each position for which the Designated City Agency was unable to refer applicants or otherwise participate in hiring as required by the program; and in the case of clause (ii), the Issuer may assess damages for breach of each requirement in the amount of \$1,000. In view of the difficulty of accurately ascertaining the loss which the Issuer will suffer by reason of the Institution's failure to comply with Program requirements, the foregoing amounts are hereby fixed and agreed as the liquidated damages that the Issuer will suffer by reason of such failure, and not as a penalty. The Institution shall be liable for and shall pay to the Issuer all damages assessed against the Institution or any of its tenants at the project upon receipt of demand from the Issuer.

EXHIBIT J
FORM OF LW AGREEMENT

LIVING WAGE AGREEMENT

This LIVING WAGE AGREEMENT (this “Agreement”) is made as of [____], by [____] (“Obligor”) in favor of Institution, the Issuer, the City, the DCA and the Comptroller (each as defined below) (each, an “Obligee”). In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Obligor hereby covenants and agrees as follows:

1. Definitions. As used herein the following capitalized terms shall have the respective meanings specified below.

“Affiliate” means, with respect to a given Person, any other Person that directly or indirectly through one or more intermediaries Controls, is Controlled by, or is under common Control with such given Person.

“Asserted Cure” has the meaning specified in paragraph 10(a).

“Asserted LW Violation” has the meaning specified in paragraph 10(a).

“City” means The City of New York.

“Comptroller” means the Comptroller of The City of New York or his or her designee.

“Concessionaire” means a Person that has been granted the right by Institution, an Affiliate of Institution or any tenant, subtenant, leaseholder or subleaseholder of Institution or of an Affiliate of Institution to operate at the Facility for the primary purpose of selling goods or services to natural persons at the Facility.

“Control” or “Controls”, including the related terms “Controlled by” and “under common Control with”, means the power to direct the management and policies of a Person (a) through the ownership, directly or indirectly, of not less than a majority of its voting equity, (b) through the right to designate or elect not less than a majority of the members of its board of directors, board of managers, board of trustees or other governing body, or (c) by contract or otherwise.

“Covered Counterparty” means a Covered Employer whose Specified Contract is directly with Obligor or an Affiliate of Obligor to lease, occupy, operate or perform work at the Obligor Facility.

“Covered Employer” means any of the following Persons: (a) Obligor, (b) a tenant, subtenant, leaseholder or subleaseholder of Obligor that leases any portion of the Obligor Facility (or an Affiliate of any such tenant, subtenant, leaseholder or

subleaseholder if such Affiliate has one or more direct Site Employees), (c) a Concessionaire that operates on any portion of the Obligor Facility, and (d) a Person that contracts or subcontracts with any Covered Employer described in clauses (a), (b) or (c) above to perform work for a period of more than ninety days on any portion of the Obligor Facility, including temporary services or staffing agencies, food service contractors, and other on-site service contractors; provided, however, that the term “Covered Employer” shall not include (i) a Person of the type described in Section 6-134(d)(2), (3), (4) or (5) of the New York City Administrative Code, (ii) a Person that has annual consolidated gross revenues that are less than the Small Business Cap unless the revenues of the Person are included in the consolidated gross revenues of a Person having annual consolidated gross revenues that are more than the Small Business Cap, in each case calculated based on the fiscal year preceding the fiscal year in which the determination is being made, and in each case calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Obligor Facility if residential units comprise more than 75% of the total Facility area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Issuer has determined (in its sole and absolute discretion) in writing to be exempt on the basis that it works significantly with a Qualified Workforce Program, (v) a Person whose Site Employees all are paid wages determined pursuant to a collective bargaining or labor agreement, (vi) if Institution is a “covered developer” under and as defined in the Prevailing Wage Law, a Person that is a “building services contractor” (as defined in the LW Law) so long as such Person is paying its “building service employees” (as defined in the Prevailing Wage Law) no less than the applicable “prevailing wage” (as defined in the Prevailing Wage Law), or (vii) a Person exempted by a Deputy Mayor of The City of New York in accordance with the Mayor’s Executive Order No. 7 dated September 30, 2014.

“DCA” means the Department of Consumer Affairs of The City of New York, acting as the designee of the Mayor of The City of New York, or such other agency or designee that the Mayor of The City of New York may designate from time to time.

“Facility” means the land and real property improvements located at 356-62 East 139th Street, Bronx, New York 10454, Block 2301 and Lots 12, 13, 14 and 15.

“Institution” means Friends of Academic Leadership CS LLC, a limited liability company organized and existing under the laws of the State of New York, having its principal office at 677 East 141st Street, Bronx, New York 10454, or its permitted successors or assigns as Institution under the Project Agreement.

“Issuer” means Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York, having its principal office at 110 William Street, New York, New York 10038.

“LW” has the same meaning as the term “living wage” as defined in Section 6-134 of the New York City Administrative Code and shall be adjusted annually in

accordance therewith, except that as of April 1, 2015, the “living wage rate” component of the LW shall be eleven dollars and sixty-five cents per hour (\$11.65/hour) and the “health benefits supplement rate” component of the LW shall be one dollar and sixty-five cents per hour (\$1.65/hour). The annual adjustments to the “living wage rate” and “health benefits supplement rate” will be announced on or around January 1 of each year by the DCA and will go into effect on April 1 of such year.

“LW Agreement” means, with respect to any Covered Counterparty, an enforceable agreement in the form attached hereto as Attachment 1 (except only with such changes as are necessary to make such Covered Counterparty the obligor thereunder).

“LW Agreement Delivery Date” means, with respect to any Covered Counterparty, the latest of (a) the effective date of such Covered Counterparty’s Specified Contract, (b) the date that such Covered Counterparty becomes a Covered Employer at the Obligor Facility and (c) the date of this Agreement.

“LW Law” means the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

“LW Term” means the period commencing on the date of this Agreement and ending on the date that is the earlier to occur of: (a) the later to occur of (i) the date on which Institution is no longer receiving financial assistance under the Project Agreement or (ii) the date that is ten years after [the Facility commences operations][the Closing Date (as defined in the Project Agreement)];¹ or (b) the end of the term of Obligor’s Specified Contract (including any renewal or option terms pursuant to any exercised options), whether by early termination or otherwise.

“LW Violation Final Determination” has the meaning specified in paragraph 10(a)(i), paragraph 10(a)(ii)(1) or paragraph 10(a)(ii)(2), as applicable.

“LW Violation Initial Determination” has the meaning specified in paragraph 10(a)(ii).

“LW Violation Notice” has the meaning specified in paragraph 10(a).

“LW Violation Threshold” means \$100,000 multiplied by 1.03ⁿ, where “n” is the number of full years that have elapsed since January 1, 2015.

“Obligor Facility” means the applicable portion of the Facility covered by the Specified Contract of Obligor.

“Operational Date” means the date that Obligor commences occupancy, operations or work at the Obligor Facility.

“Owed Interest” means the interest accruing on Owed Monies, which interest shall accrue from the relevant date(s) of underpayment to the date that the Owed Monies are paid, at a rate equal to the interest rate then in effect as prescribed by the superintendent of banks pursuant to Section 14-a of the New York State Banking Law, but in any event at a rate no less than six percent per year.

“Owed Monies” means, as the context shall require, either (a) the total deficiency of LW required to be paid by Obligor in accordance with this Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the “living wage rate” component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the “health benefits supplement rate” component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis; or (b) if Obligor failed to obtain a LW Agreement from a Covered Counterparty as required under paragraph 5 below, the total deficiency of LW that would have been required to be paid under such Covered Counterparty’s LW Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the “living wage rate” component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the “health benefits supplement rate” component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis, during the period commencing on the LW Agreement Delivery Date applicable to such Covered Counterparty and ending immediately prior to the execution and delivery by such Covered Counterparty of its LW Agreement (if applicable).

“Person” means any natural person, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, governmental authority, governmental agency, governmental instrumentality or any form of doing business.

“Pre-Existing Covered Counterparty” has the meaning specified in paragraph 5.

“Pre-Existing Specified Contract” has the meaning specified in paragraph 5.

“Prevailing Wage Law” means Section 6-130 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

“Project Agreement” means that certain Loan Agreement, dated as of June 1, 2021, between the Issuer and the Institution (as amended, restated, supplemented or otherwise modified from time to time), pursuant to which Institution has or will receive financial assistance from the Issuer.

“Qualified Workforce Program” means a training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ

¹ Use the date that is later in time.

populations and that has been determined to be a Qualified Workforce Program by the Director of the Mayor's Office of Workforce Development.

"Site Employee" means, with respect to any Covered Employer, any natural person who works at the Obligor Facility and who is employed by, or contracted or subcontracted to work for, such Covered Employer, including all employees, independent contractors, contingent workers or contracted workers (including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity) that are performing work on a full-time, part-time, temporary or seasonal basis; provided that the term "Site Employee" shall not include any natural person who works less than seventeen and a half (17.5) hours in any consecutive seven day period at the Obligor Facility unless the primary work location or home base of such person is at the Obligor Facility (for the avoidance of doubt, a natural person who works at least seventeen and a half (17.5) hours in any consecutive seven day period at the Obligor Facility shall thereafter constitute a Site Employee).

"Small Business Cap" means three million dollars; provided that, beginning in 2015 and each year thereafter, the Small Business Cap shall be adjusted contemporaneously with the adjustment to the "living wage rate" component of the LW using the methodology set forth in Section 6-134(b)(9) of the New York City Administrative Code.

"Specified Contract" means (a) in the case of Obligor, the [____], dated as of [____], by and between Obligor and [____], or (b) in the case of any other Person, the principal written contract that makes such Person a Covered Employer hereunder.

2. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall pay each of its direct Site Employees no less than an LW.
3. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall, on or prior to the day on which each direct Site Employee of Obligor begins work at the Obligor Facility, (a) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement in a conspicuous place at the Obligor Facility that is readily observable by such direct Site Employee and (b) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement. Such written notice shall also provide a statement advising Site Employees that if they have been paid less than the LW they may notify the Comptroller and request an investigation. Such written notice shall be in English and Spanish.
4. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall not take any adverse employment action against any Site Employee for reporting or asserting a violation of this Agreement.

5. During the LW Term, Obligor shall cause each Covered Counterparty to execute an LW Agreement on or prior to the LW Agreement Delivery Date applicable to such Covered Counterparty; provided that Obligor shall only be required to use commercially reasonable efforts (without any obligation to commence any action or proceedings) to obtain an LW Agreement from a Covered Counterparty whose Specified Contract with Obligor was entered into prior to the date hereof (a "Pre-Existing Covered Counterparty" and a "Pre-Existing Specified Contract"). Prior to the renewal or extension of any Pre-Existing Specified Contract (or prior to entering into a new Specified Contract with a Pre-Existing Covered Counterparty), Obligor shall cause or otherwise require the Pre-Existing Covered Counterparty to execute an LW Agreement, provided that the foregoing shall not preclude Obligor from renewing or extending a Pre-Existing Specified Contract pursuant to any renewal or extension options granted to the Pre-Existing Covered Counterparty in the Pre-Existing Specified Contract as such option exists as of the date hereof. Obligor shall deliver a copy of each Covered Counterparty's LW Agreement to the Issuer, the DCA and the Comptroller at the notice address specified in paragraph 12 below and promptly upon written request. Obligor shall retain copies of each Covered Counterparty's LW Agreement until six (6) years after the expiration or earlier termination of such Covered Counterparty's Specified Contract.
6. Commencing on the Operational Date and thereafter during the remainder of the LW Term, in the event that an individual with managerial authority at Obligor receives a written complaint from any Site Employee (or such individual otherwise obtains actual knowledge) that any Site Employee has been paid less than an LW, Obligor shall deliver written notice to the Issuer, the DCA and the Comptroller within 30 days thereof.
7. Obligor hereby acknowledges and agrees that the Issuer, the City, the DCA and the Comptroller are each intended to be direct beneficiaries of the terms and provisions of this Agreement. Obligor hereby acknowledges and agrees that the DCA, the Comptroller and the Issuer shall each have the authority and power to enforce any and all provisions and remedies under this Agreement in accordance with paragraph 10 below. Obligor hereby agrees that the DCA, the Comptroller and the Issuer may, as their sole and exclusive remedy for any violation of Obligor's obligations under this Agreement, bring an action for damages (but not in excess of the amounts set forth in paragraph 10 below), injunctive relief or specific performance or any other non-monetary action at law or in equity, in each case subject to the provisions of paragraph 10 below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Obligor under this Agreement. The agreements and acknowledgements of Obligor set forth in this Agreement may not be amended, modified or rescinded by Obligor without the prior written consent of the Issuer or the DCA.
8. No later than 30 days after Obligor's receipt of a written request from the Issuer, the DCA and/or the Comptroller, Obligor shall provide to the Issuer, the DCA and the Comptroller (a) a written list of all Covered Counterparties, together with the LW Agreements of such Covered Counterparties. From and after the Operational Date, no later than 30 days after Obligor's receipt of a written request from the Issuer, the DCA and/or the Comptroller, Obligor shall provide to the Issuer, the DCA and the Comptroller (b) a certification stating

that all of the direct Site Employees of Obligor are paid no less than an LW and stating that Obligor is in compliance with this Agreement in all material respects, (c) certified payroll records in respect of the direct Site Employees of Obligor, and/or (d) any other documents or information reasonably related to the determination of whether Obligor is in compliance with its obligations under this Agreement.

9. From and after the Operational Date, Obligor shall, annually by August 1 of each year during the LW Term, submit to Institution such data in respect of employment, jobs and wages at the Obligor Facility as of June 30 of such year that is needed by Institution for it to comply with its reporting obligations under the Project Agreement.

10. Violations and Remedies.

- (a) If a violation of this Agreement shall have been alleged by the Issuer, the DCA and/or the Comptroller, then written notice will be provided to Obligor for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Issuer, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under paragraph 10(b), (c), (d), (e) and/or (f) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Obligor's receipt of the LW Violation Notice, Obligor may either:

- (i) Perform the Asserted Cure no later than 30 days after its receipt of the LW Violation Notice (in which case a "LW Violation Final Determination" shall be deemed to exist), or

- (ii) Provide written notice to the Issuer, the DCA and the Comptroller indicating that it is electing to contest the Asserted LW Violation and/or the Asserted Cure, which notice shall be delivered no later than 30 days after its receipt of the LW Violation Notice. Obligor shall bear the burdens of proof and persuasion and shall provide evidence to the DCA no later than 45 days after its receipt of the LW Violation Notice. The DCA shall then, on behalf of the City, the Issuer and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Obligor and deliver to Obligor a written statement of such determination in reasonable detail, which shall include a confirmation or modification of the Asserted LW Violation and Asserted Cure (such statement, a "LW Violation Initial Determination"). Upon Obligor's receipt of the LW Violation Initial Determination, Obligor may either:

- (1) Accept the LW Violation Initial Determination and shall perform the Asserted Cure specified in the LW Violation Initial Determination no later than 30 days after its receipt of the LW Violation Initial Determination (after such 30 day period has lapsed, but subject to clause (2) below, the LW Violation Initial

Determination shall be deemed to be a "LW Violation Final Determination"), or

- (2) Contest the LW Violation Initial Determination by filing in a court of competent jurisdiction or for an administrative hearing no later than 30 days after its receipt of the LW Violation Initial Determination, in which case, Obligor's obligation to perform the Asserted Cure shall be stayed pending resolution of the action. If no filing in a court of competent jurisdiction or for an administrative hearing is made to contest the LW Violation Initial Determination within 30 days after Obligor's receipt thereof, then the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination". If such a filing is made, then a "LW Violation Final Determination" will be deemed to exist when the matter has been finally adjudicated. Obligor shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

- (b) For the first LW Violation Final Determination imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Issuer or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees; and/or (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation

- (c) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Issuer or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees, and Obligor shall pay fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee; and/or (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation.

- (d) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Obligor in respect of its direct Site Employees is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Obligor, then in lieu of the remedies specified in subparagraph (c) above and at the direction of the Issuer or the DCA (but not both), Obligor shall pay (i) two hundred percent (200%) of the Owed Monies and Owed Interest in respect of the present LW Violation Final Determination to the affected direct Site Employees of Obligor, and (ii) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

(e) If Obligor fails to obtain an LW Agreement from its Covered Counterparty in violation of paragraph 5 above, then at the discretion of the Issuer or the DCA (but not both), Obligor shall be responsible for payment of the Owed Monies, Owed Interest and other payments described in subparagraphs (b), (c) and (d) above (as applicable) as if the direct Site Employees of such Covered Counterparty were the direct Site Employees of Obligor.

(f) Obligor shall not renew the Specified Contract of any specific Covered Counterparty or enter into a new Specified Contract with any specific Covered Counterparty if both (i) the aggregate amount of Owed Monies and Owed Interest paid or payable by such Covered Counterparty in respect of its direct Site Employees for all past and present LW Violation Final Determinations (or that would have been payable had such Covered Counterparty entered into an LW Agreement) is in excess of the LW Violation Threshold and (ii) two or more LW Violation Final Determinations against such Covered Counterparty (or in respect of the direct Site Employees of such Covered Counterparty) occurred within the last 6 years of the term of the applicable Specified Contract (or if the term thereof is less than 6 years, then during the term thereof); provided that the foregoing shall not preclude Obligor from extending or renewing a Specified Contract pursuant to any renewal or extension options granted to the Covered Counterparty in the Specified Contract as in effect as of the LW Agreement Delivery Date applicable to such Covered Counterparty.

(g) It is acknowledged and agreed that (i) the sole monetary damages that Obligor may be subject to for a violation of this Agreement are as set forth in this paragraph 10, and (ii) in no event will the Specified Contract between Obligor and a given Covered Counterparty be permitted to be terminated or rescinded by the Issuer, the DCA or the Comptroller by virtue of violations by Obligor or a Covered Counterparty.

11. Obligor acknowledges that the terms and conditions of this Agreement are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014.

12. All notices under this Agreement shall be in writing and shall be delivered by (a) return receipt requested or registered or certified United States mail, postage prepaid, (b) a nationally recognized overnight delivery service for overnight delivery, charges prepaid, or (c) hand delivery, addressed as follows:

(a) If to Obligor, to [Obligor's Name], [Street Address], [City], [State], [Zip Code], Attention: [Contact Person].

(b) If to the Issuer, to Build NYC Resource Corporation, 110 William Street, New York, NY, 10038, Attention: General Counsel, with a copy to Build NYC Resource Corporation, 110 William Street, New York, NY, 10038, Attention: Executive Director.

(c) If to the DCA, to Department of Consumer Affairs of The City of New York, 42 Broadway, New York, NY, 10004, Attention: Living Wage Division.

(d) If to the Comptroller, to Office of the Comptroller of The City of New York, One Centre Street, New York, NY 10007, Attention: Chief, Bureau of Labor Law.

13. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

14. Obligor hereby irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York in New York County or the United States District Court for the Southern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; (c) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (d) waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to any federal court other than the United States District Court for the Southern District of New York, and (iii) to move for a change of venue to a New York State Court outside New York County.

15. Notwithstanding any other provision of this Agreement, in no event shall the partners, members, counsel, directors, shareholders or employees of Obligor have any personal obligation or liability for any of the terms, covenants, agreements, undertakings, representations or warranties of Obligor contained in this Agreement.

IN WITNESS WHEREOF, Obligor has executed and delivered this Agreement as of the date first written above.

[_____]

By: _____
Name:
Title:

**ATTACHMENT 1 to EXHIBIT J
FORM OF LW AGREEMENT**

LIVING WAGE AGREEMENT

This LIVING WAGE AGREEMENT (this “Agreement”) is made as of [____], by [____] (“Obligor”) in favor of Institution, the Issuer, the City, the DCA and the Comptroller (each as defined below) (each, an “Obligee”). In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Obligor hereby covenants and agrees as follows:

1. Definitions. As used herein the following capitalized terms shall have the respective meanings specified below.

“Asserted Cure” has the meaning specified in paragraph 9(a).

“Asserted LW Violation” has the meaning specified in paragraph 9(a).

“City” means The City of New York.

“Comptroller” means the Comptroller of The City of New York or his or her designee.

“Covered Employer” means Obligor; provided, however, that the term “Covered Employer” shall not include (i) a Person of the type described in Section 6-134(d)(2), (3), (4) or (5) of the New York City Administrative Code, (ii) a Person that has annual consolidated gross revenues that are less than the Small Business Cap unless the revenues of the Person are included in the consolidated gross revenues of a Person having annual consolidated gross revenues that are more than the Small Business Cap, in each case calculated based on the fiscal year preceding the fiscal year in which the determination is being made, and in each calculated in accordance with generally accepted accounting principles, (iii) any otherwise covered Person operating on any portion of the Obligor Facility if residential units comprise more than 75% of the total Facility area and all of the residential units are subject to rent regulation, (iv) any otherwise covered Person that the Issuer has determined (in its sole and absolute discretion) in writing to be exempt on the basis that it works significantly with a Qualified Workforce Program, (v) a Person whose Site Employees all are paid wages determined pursuant to a collective bargaining or labor agreement, (vi) if Institution is a “covered developer” under and as defined in the Prevailing Wage Law, a Person that is a “building services contractor” (as defined in the LW Law) so long as such Person is paying its “building service employees” (as defined in the Prevailing Wage Law) no less than the applicable “prevailing wage” (as defined in the Prevailing Wage Law), or (vii) a Person exempted by a Deputy Mayor of The City of New York in accordance with the Mayor’s Executive Order No. 7 dated September 30, 2014.

“DCA” means the Department of Consumer Affairs of The City of New York, acting as the designee of the Mayor of The City of New York, or such other agency or designee that the Mayor of The City of New York may designate from time to time.

“Facility” means the land and real property improvements located at 356-62 East 139th Street, Bronx, New York 10454, Block 2301 and Lots 12, 13, 14 and 15.

“Institution” means Friends of Academic Leadership CS LLC, a limited liability company organized and existing under the laws of the State of New York, having its principal office at 677 East 141st Street, Bronx, New York 10454, or its permitted successors or assigns as Institution under the Project Agreement.

“Issuer” means Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York, having its principal office at 110 William Street, New York, New York 10038.

“LW” has the same meaning as the term “living wage” as defined in Section 6-134(b)(9) of the New York City Administrative Code and shall be adjusted annually in accordance therewith, except that as of April 1, 2015, the “living wage rate” component of the LW shall be eleven dollars and sixty-five cents per hour (\$11.65/hour) and the “health benefits supplement rate” component of the LW shall be one dollar and sixty-five cents per hour (\$1.65/hour). The annual adjustments to the “living wage rate” and “health benefits supplement rate” will be announced on or around January 1 of each year by the DCA and will go into effect on May 1 of such year.

“LW Law” means the Fair Wages for New Yorkers Act, constituting Section 6-134 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

“LW Term” means the period commencing on the date of this Agreement and ending on the date that is the earlier to occur of: (a) the later to occur of (i) the date on which Institution is no longer receiving financial assistance under the Project Agreement or (ii) the date that is ten years after the Facility commences operations; or (b) the end of the term of Obligor’s Specified Contract (including any renewal or option terms pursuant to any exercised options), whether by early termination or otherwise.

“LW Violation Final Determination” has the meaning specified in paragraph 9(a)(i), paragraph 9(a)(ii)(1) or paragraph 9(a)(ii)(2), as applicable.

“LW Violation Initial Determination” has the meaning specified in paragraph 9(a)(ii).

“LW Violation Notice” has the meaning specified in paragraph 9(a).

“LW Violation Threshold” means \$100,000 multiplied by 1.03ⁿ, where “n” is the number of full years that have elapsed since January 1, 2015.

“Obligor Facility” means the applicable portion of the Facility covered by the Specified Contract of Obligor.

“Operational Date” means the date that Obligor commences occupancy, operations or work at the Obligor Facility.

“Owed Interest” means the interest accruing on Owed Monies, which interest shall accrue from the relevant date(s) of underpayment to the date that the Owed Monies are paid, at a rate equal to the interest rate then in effect as prescribed by the superintendent of banks pursuant to Section 14-a of the New York State Banking Law, but in any event at a rate no less than six percent per year.

“Owed Monies” means the total deficiency of LW required to be paid by Obligor in accordance with this Agreement to its direct Site Employee(s) after taking into account the wages actually paid (which shall be credited towards the “living wage rate” component of the LW), and the monetary value of health benefits actually provided (which shall be credited towards the “health benefits supplement rate” component of the LW), to such direct Site Employee(s), all as calculated on a per pay period basis.

“Person” means any natural person, sole proprietorship, partnership, association, joint venture, limited liability company, corporation, governmental authority, governmental agency, governmental instrumentality or any form of doing business.

“Prevailing Wage Law” means Section 6-130 of the New York City Administrative Code, as amended, supplemented or otherwise modified from time to time, and all rules and regulations promulgated thereunder.

“Project Agreement” means that certain Loan Agreement, dated as of June 1, 2021, between the Issuer and the Institution (as amended, restated, supplemented or otherwise modified from time to time), pursuant to which Institution has or will receive financial assistance from the Issuer.¹

“Qualified Workforce Program” means a training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ populations and that has been determined to be a Qualified Workforce Program by the Director of the Mayor’s Office of Workforce Development.

“Site Employee” means any natural person who works at the Obligor Facility and who is employed by, or contracted or subcontracted to work for, Obligor, including all employees, independent contractors, contingent workers or contracted workers (including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity) that are performing work on a full-time, part-time, temporary or seasonal basis; provided that the term “Site Employee” shall not include any natural person who works less than seventeen and a half (17.5) hours in any consecutive seven day period at the Obligor Facility unless the primary work location or home base of such person is at the Obligor Facility (for the avoidance of doubt, a natural person who works at least seventeen and a half (17.5) hours in any consecutive seven day period at the Obligor Facility shall thereafter constitute a Site Employee).

¹ Fill in applicable date of Loan Agreement.

“Small Business Cap” means three million dollars; provided that, beginning in 2015 and each year thereafter, the Small Business Cap shall be adjusted contemporaneously with the adjustment to the “living wage rate” component of the LW using the methodology set forth in Section 6-134(b)(9) of the New York City Administrative Code.

“Specified Contract” means (a) in the case of Obligor, the [____], dated as of [____], by and between Obligor and [____], or (b) in the case of any other Person, the principal written contract that makes such Person a Covered Employer hereunder.

2. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall pay each of its direct Site Employees no less than an LW.
3. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall, on or prior to the day on which each direct Site Employee of Obligor begins work at the Obligor Facility, (a) post a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement in a conspicuous place at the Obligor Facility that is readily observable by such direct Site Employee and (b) provide such direct Site Employee with a written notice detailing the wages and benefits required to be paid to Site Employees under this Agreement. Such written notice shall also provide a statement advising Site Employees that if they have been paid less than the LW they may notify the Comptroller and request an investigation. Such written notice shall be in English and Spanish.
4. Commencing on the Operational Date and thereafter during the remainder of the LW Term, if and for so long as Obligor is a Covered Employer, Obligor shall not take any adverse employment action against any Site Employee for reporting or asserting a violation of this Agreement.
5. Commencing on the Operational Date and thereafter during the remainder of the LW Term, in the event that an individual with managerial authority at Obligor receives a written complaint from any Site Employee (or such individual otherwise obtains actual knowledge) that any Site Employee has been paid less than an LW, Obligor shall deliver written notice to the Issuer, the DCA and the Comptroller within 30 days thereof.
6. Obligor hereby acknowledges and agrees that the Issuer, the City, the DCA and the Comptroller are each intended to be direct beneficiaries of the terms and provisions of this Agreement. Obligor hereby acknowledges and agrees that the DCA, the Comptroller and the Issuer shall each have the authority and power to enforce any and all provisions and remedies under this Agreement in accordance with paragraph 9 below. Obligor hereby agrees that the DCA, the Comptroller and the Issuer may, as their sole and exclusive remedy for any violation of Obligor’s obligations under this Agreement, bring an action for damages (but not in excess of the amounts set forth in paragraph 9 below), injunctive relief or specific performance or any other non-monetary action at law or in equity, in each case subject to the provisions of paragraph 9 below, as may be necessary or desirable to enforce the performance or observance of any obligations, agreements or covenants of Obligor under this

Agreement. The agreements and acknowledgements of Obligor set forth in this Agreement may not be amended, modified or rescinded by Obligor without the prior written consent of the Issuer or the DCA.

7. From and after the Operational Date, no later than 30 days after Obligor's receipt of a written request from the Issuer, the DCA and/or the Comptroller, Obligor shall provide to the Issuer, the DCA and the Comptroller (a) a certification stating that all of the direct Site Employees of Obligor are paid no less than an LW and stating that Obligor is in compliance with this Agreement in all material respects, (b) certified payroll records in respect of the direct Site Employees of Obligor, and/or (c) any other documents or information reasonably related to the determination of whether Obligor is in compliance with its obligations under this Agreement.
8. From and after the Operational Date, Obligor shall, annually by August 1 of each year during the LW Term, submit to its counterparty to its Specified Contract such data in respect of employment, jobs and wages at the Obligor Facility as of June 30 of such year that is needed by Institution for it to comply with its reporting obligations under the Project Agreement.
9. Violations and Remedies.

(a) If a violation of this Agreement shall have been alleged by the Issuer, the DCA and/or the Comptroller, then written notice will be provided to Obligor for such alleged violation (an "LW Violation Notice"), specifying the nature of the alleged violation in such reasonable detail as is known to the Issuer, the DCA and the Comptroller (the "Asserted LW Violation") and specifying the remedy required under paragraph 9(b), (c) and/or (d) (as applicable) to cure the Asserted LW Violation (the "Asserted Cure"). Upon Obligor's receipt of the LW Violation Notice, Obligor may either:

- (i) Perform the Asserted Cure no later than 30 days after its receipt of the LW Violation Notice (in which case a "LW Violation Final Determination" shall be deemed to exist), or
- (ii) Provide written notice to the Issuer, the DCA and the Comptroller indicating that it is electing to contest the Asserted LW Violation and/or the Asserted Cure, which notice shall be delivered no later than 30 days after its receipt of the LW Violation Notice. Obligor shall bear the burdens of proof and persuasion and shall provide evidence to the DCA no later than 45 days after its receipt of the LW Violation Notice. The DCA shall then, on behalf of the City, the Issuer and the Comptroller, make a good faith determination of whether the Asserted LW Violation exists based on the evidence provided by Obligor and deliver to Obligor a written statement of such determination in reasonable detail, which shall include a confirmation or modification of the Asserted LW Violation and Asserted Cure (such statement, a "LW Violation Initial Determination"). Upon Obligor's receipt of the LW Violation Initial Determination, Obligor may either:

(1) Accept the LW Violation Initial Determination and shall perform the Asserted Cure specified in the LW Violation Initial Determination no later than 30 days after its receipt of the LW Violation Initial Determination (after such 30 day period has lapsed, but subject to clause (2) below, the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination"), or

(2) Contest the LW Violation Initial Determination by filing in a court of competent jurisdiction or for an administrative hearing no later than 30 days after its receipt of the LW Violation Initial Determination, in which case, Obligor's obligation to perform the Asserted Cure shall be stayed pending resolution of the action. If no filing in a court of competent jurisdiction or for an administrative hearing is made to contest the LW Violation Initial Determination within 30 days after Obligor's receipt thereof, then the LW Violation Initial Determination shall be deemed to be a "LW Violation Final Determination". If such a filing is made, then a "LW Violation Final Determination" will be deemed to exist when the matter has been finally adjudicated. Obligor shall perform the Asserted Cure (subject to the judicial decision) no later than 30 days after the LW Violation Final Determination.

- (b) For the first LW Violation Final Determination imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Issuer or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees; and/or (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation.
- (c) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, at the direction of the Issuer or the DCA (but not both), (i) Obligor shall pay the Owed Monies and Owed Interest in respect of such direct Site Employees of Obligor to such direct Site Employees, and Obligor shall pay fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee, and/or (ii) in the case of a violation that does not result in monetary damages owed by Obligor, Obligor shall cure, or cause the cure of, such non-monetary violation.
- (d) For the second and any subsequent LW Violation Final Determinations imposed on Obligor in respect of any direct Site Employees of Obligor, if the aggregate amount of Owed Monies and Owed Interest paid or payable by Obligor in respect of its direct Site Employees is in excess of the LW Violation Threshold for all past and present LW Violation Final Determinations imposed on Obligor, then in lieu of the remedies specified in subparagraph (c) above and at the direction of the Issuer or the DCA (but not both), Obligor shall pay (i) two hundred percent (200%) of the Owed Monies and Owed Interest in respect of the present LW

Violation Final Determination to the affected direct Site Employees of Obligor, and (ii) fifty percent (50%) of the total amount of such Owed Monies and Owed Interest to the DCA as an administrative fee.

- (e) It is acknowledged and agreed that the sole monetary damages that Obligor may be subject to for a violation of this Agreement are as set forth in this paragraph 9.

10. Obligor acknowledges that the terms and conditions of this Agreement are intended to implement the Mayor's Executive Order No. 7 dated September 30, 2014.

11. All notices under this Agreement shall be in writing and shall be delivered by (a) return receipt requested or registered or certified United States mail, postage prepaid, (b) a nationally recognized overnight delivery service for overnight delivery, charges prepaid, or (c) hand delivery, addressed as follows:

(a) If to Obligor, to [Obligor's Name], [Street Address], [City], [State], [Zip Code], Attention: [Contact Person].

(b) If to the Issuer, to Build NYC Resource Corporation, 110 William Street, New York, NY, 10038, Attention: General Counsel, with a copy to Build NYC Resource Corporation, 110 William Street, New York, NY, 10038, Attention: Executive Director.

(c) If to the DCA, to Department of Consumer Affairs of The City of New York, 42 Broadway, New York, NY, 10004, Attention: Living Wage Division.

(d) If to the Comptroller, to Office of the Comptroller of The City of New York, One Centre Street, New York, NY 10007, Attention: Chief, Bureau of Labor Law.

12. This Agreement shall be governed by, and shall be construed and enforced in accordance with, the laws of the State of New York.

13. Obligor hereby irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York in New York County or the United States District Court for the Southern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; (c) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (d) waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to any federal court other than the United States District Court for the Southern District of New York, and (iii) to move for a change of venue to a New York State Court outside New York County.

14. Notwithstanding any other provision of this Agreement, in no event shall the partners, members, counsel, directors, shareholders or employees of Obligor have any personal obligation or liability for any of the terms, covenants, agreements, undertakings, representations or warranties of Obligor contained in this Agreement.

IN WITNESS WHEREOF, Obligor has executed and delivered this Agreement as of the date first written above.

[_____]

By: _____
Name:
Title:

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BUILD NYC RESOURCE CORPORATION,

a local development corporation created pursuant to the Not-for-Profit Corporation Law of the
State of New York at the direction of the Mayor of
The City of New York, having its principal office at One Liberty Plaza, 165 Broadway,
New York, New York 10006,
as “**Issuer**”,

TO

THE BANK OF NEW YORK MELLON,

a banking corporation organized and existing under the laws of the State of New York, having a
corporate trust office at 101 Barclay Street, Floor 7W, New York, New York 10286, together
with any successor trustee at the time serving as such under this Indenture of Trust,
as “**Trustee**”

INDENTURE OF TRUST

Dated as of June 1, 2021

\$17,770,000
Build NYC Resource Corporation
Revenue Bonds
(Academic Leadership Charter School Project), Series 2021

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INDENTURE OF TRUST

THIS INDENTURE OF TRUST dated as of the date set forth on the cover page hereof (as the same may be amended and supplemented in accordance with its terms, this “**Indenture**”), by and between **BUILD NYC RESOURCE CORPORATION**, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York, having its principal office at One Liberty Plaza, 165 Broadway, New York, New York 10006, party of the first part, to **THE BANK OF NEW YORK MELLON**, a banking corporation duly organized and existing under the laws of New York State, together with any successor trustee at the time serving as such under this Indenture of Trust, having a corporate trust office 101 Barclay Street, Floor 7W, New York, New York 10286, party of the second part (capitalized terms used herein shall have the respective meanings assigned to such terms throughout this Indenture),

WITNESSETH:

WHEREAS, the Issuer is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Certificate of Incorporation and By-Laws (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “**City**”) by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other eligible projects that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Certificate of Incorporation of the Issuer further provides that the lessening of the burdens of government and the exercise of the powers conferred on the Issuer are the performance of an essential governmental function, which activities will assist the City in reducing unemployment and promoting additional job growth and economic development; and

WHEREAS, the Institution has entered into negotiations with officials of the Issuer for the Issuer’s assistance with a tax-exempt bond transaction, the proceeds of which, together with other funds of the Institution, will be used by the Institution for the construction, equipping, and/or furnishing of the Improvements as part of the Project; and

WHEREAS, the Issuer has determined that the providing of financial assistance to the Institution for the Project will promote and is authorized by and will be in furtherance of the corporate purposes of the Issuer; and

WHEREAS, as a result of such negotiations, the Institution has requested the Issuer to issue its bonds to finance a portion of the costs of the Project; and

WHEREAS, the Issuer adopted the Approving Resolution authorizing the Project and the Bond Resolution authorizing the issuance of its revenue bonds to finance a portion of the costs of the Project; and

WHEREAS, to facilitate the Project and the issuance by the Issuer of its revenue bonds to finance a portion of the costs of the Project, the Issuer and the Institution have entered into negotiations pursuant to which (i) the Issuer will make the Loan of the proceeds of the Initial Bonds, in the original aggregate principal amount of the Initial Bonds, to the Institution pursuant to the Loan Agreement, and (ii) the Institution will execute the Promissory Note in favor of the Issuer to evidence the Institution's obligation under the Loan Agreement to repay the Loan, and the Issuer will endorse the Promissory Note to the Trustee; and

WHEREAS, to provide funds for a portion of the costs of the Project and for incidental and related costs and to provide funds to pay the costs and expenses of the issuance of the Initial Bonds, the Issuer has authorized the issuance of the Initial Bonds in the Authorized Principal Amount pursuant to the Bond Resolution and this Indenture; and

WHEREAS, in connection with the issuance of the Initial Bonds, the School, Bank of New York Mellon, as custodian (the "**Custodian**") and as the Trustee will execute and deliver a custody agreement dated as of June 1, 2021 (the "**Custody Agreement**"). Pursuant to the Custody Agreement, the School will cause payments of Education Aid due to the School from the School Districts named in the Custody Agreement to be delivered to the Custodian, and the Custodian will in turn make transfers of certain moneys to the Trustee for deposit under this Indenture on account of lease payments owed by the School to the Institution under the School Lease, all as set forth in this Indenture; and

WHEREAS, concurrently with the execution hereof, in order to further secure the Initial Bonds, the Institution will grant mortgage liens on and security interests in its interests in the Mortgaged Property to the Issuer and the Trustee pursuant to the Mortgage, and the Issuer will assign its right, title and interest under the Mortgage to the Trustee pursuant to the Assignment of Mortgage; and

WHEREAS, School will lease the Land to the Institution pursuant to the Ground Lease for a term of at least 25 years and is expected to contribute its equity to be used in addition to a portion of the proceeds of the Bonds to complete the Facility. The Institution will construct the Facility; and

WHEREAS, the Facility will be leased by the Institution to the School pursuant to the School Lease, and the School will covenant therein to make lease payments to the Institution in an amount equal to the Institutions' payment obligations under the Loan Agreement; and

WHEREAS, additional moneys may be necessary to finance the cost of completing the Project, providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, or providing extensions, additions or improvements to the Facility or refunding outstanding Bonds and provision should therefore be made for the issuance from time to time of additional bonds; and

WHEREAS, the Initial Bonds and the Trustee's Certificate to be endorsed thereon are all to be in substantially the form set forth in Exhibit C, with necessary and appropriate variations, omissions and insertions as permitted or required by this Indenture; and

WHEREAS, all things necessary to make the Bonds when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal special limited revenue obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid pledge and assignment of the loan payments, revenues and receipts herein made to the payment of the principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Bonds, have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS INDENTURE WITNESSETH:

That the Issuer in consideration of the premises and of the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the Holders and owners thereof, and of the sum of One Dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal, Purchase Price or Redemption Price of, and Sinking Fund Installments for, the Bonds and the indebtedness represented thereby and the interest on the Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, does hereby grant, bargain, convey, transfer, grant a security interest in, pledge and assign unto the Trustee, and unto its respective successors in trust, and to their respective assigns, for the benefit of the Bondholders, forever for the securing of the performance of the obligations of the Issuer hereinafter set forth, the following:

GRANTING CLAUSES

I

All right, title and interest of the Issuer in and to the Loan Agreement, including all loan payments, revenues and receipts payable or receivable thereunder, excluding, however, the Issuer's Reserved Rights, which Issuer's Reserved Rights may be enforced by the Issuer and the Trustee, jointly or severally.

II

All right, title and interest of the Issuer in and to the Promissory Note.

III

All moneys and securities from time to time held by the Trustee under the terms of this Indenture including amounts set apart and transferred to the Earnings Fund, the Project Fund, the Renewal Fund, the Bond Fund, the Debt Service Reserve Fund or any special fund, and all investment earnings of any of the foregoing, subject to disbursements from the Earnings Fund, the Debt Service Reserve Fund, the Project Fund, the Renewal Fund or any such special fund in accordance with the provisions of the Loan Agreement and this Indenture; provided, however, there is hereby expressly excluded from any assignment, pledge, lien or security interest any amounts set apart and transferred to the Rebate Fund.

IV

Any and all other property of every kind and nature from time to time which was heretofore or hereafter is by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the Issuer or by any other Person, with or without the consent of the Issuer, to the Trustee which is hereby authorized to receive any and all such property at any time and at all times to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said Trust and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all Holders and owners of the Bonds issued under and secured by this Indenture, without privilege, priority or distinction as to lien or otherwise of any of the Bonds over any of the others of the Bonds, except as otherwise expressly provided in this Indenture, provided, however, that if the Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal and any applicable redemption premium, of the Bonds and the interest due or to become due thereon, at the times and in the manner provided in the Bonds according to the true intent and meaning thereof and shall make the payments into the Bond Fund as required under this Indenture or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee sufficient amounts, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture to be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is expressly declared that, all the Bonds issued and secured hereunder are to be issued, authenticated and delivered and

all said loan payments, revenues and receipts hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant with the Trustee and with the respective Holders and owners, from time to time of the Bonds or any part thereof, as follows, that is to say:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions. Unless otherwise herein defined, the following capitalized terms shall have the respective meanings specified in this Section 1.01 for purposes of this Indenture.

Additional Bonds shall mean one or more Series of additional bonds issued, executed, authenticated and delivered under this Indenture.

An **Affiliate** of a Person shall mean a Person that directly or indirectly through one or more intermediaries Controls, or is under common Control with, or is Controlled by, such Person.

Approved Facility shall mean the Facility as occupied, used and operated by the Institution substantially for the Approved Project Operations, including such other activities as may be substantially related to or substantially in support of such operations, all to be effected in accordance with the Loan Agreement.

Approved Project Operations shall mean the facility located at 356-62 East 139th Street, Bronx, New York 10454, for use by the Institution and the School in the providing of educational services for students from grades K through 8.

Approving Resolution shall mean the resolution of the Issuer adopted on July 16, 2019 authorizing the Project, and undertaking to permit the issuance of the Initial Bonds to finance the Project.

Assignment of Mortgage shall mean the Assignment of Mortgage and Security Agreement (Building Loan) relating to the Facility, each dated as of even date herewith, and each from the Issuer to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with this Indenture.

Authorized Denomination shall mean, in the case of the Initial Bonds, \$5,000 or any integral multiple of \$5,000 in excess thereof.

Authorized Principal Amount shall mean, in the case of the Initial Bonds, \$17,770,000.

Authorized Representative shall mean, (i) in the case of the Issuer, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, or any other officer or employee of the Issuer who is authorized to perform specific acts or to discharge specific duties, and (ii) in the case of the Institution, a person named in Exhibit C - "Authorized Representative" to the Loan Agreement or any other officer or employee of the Institution who is authorized to perform specific duties under the Loan Agreement or under any other Project Document and of

whom another Authorized Representative of the Institution has given written notice to the Issuer and the Trustee; provided, however, that in each case for which a certification or other statement of fact or condition is required to be submitted by an Authorized Representative to any Person pursuant to the terms of the Loan Agreement or any other Project Document, such certificate or statement shall be executed only by an Authorized Representative in a position to know or to obtain knowledge of the facts or conditions that are the subject of such certificate or statement.

Beneficial Owner shall mean, whenever used with respect to an Initial Bond, the Person in whose name such Initial Bond is recorded as the Beneficial Owner of such Initial Bond by the respective systems of DTC and each of the Participants of DTC. If at any time the Initial Bonds are not held in the Book-Entry System, Beneficial Owner shall mean "Holder" for purposes of the Security Documents.

Bond Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

Bondholder, Holder of Bonds, Holder or holder shall mean any Person who shall be the registered owner of any Bond or Bonds.

Bond Registrar shall mean the Trustee acting as registrar as provided in Section 3.10.

Bond Resolution shall mean the resolution of the Issuer adopted on July 16, 2019 authorizing the issuance of the Initial Bonds.

Bonds shall mean the Initial Bonds and any Additional Bonds.

Building Loan Agreement shall mean the Building Loan Agreement, dated as of even date herewith, among the Issuer, the Institution and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and herewith.

Business Day shall mean any day that shall not be:

- (i) a Saturday, Sunday, or legal holiday;
- (ii) a day on which banking institutions in the City are authorized by law or executive order to close; or
- (iii) a day on which the New York Stock Exchange or the payment system of the Federal Reserve System is closed.

Charter School Act means the New York Charter Schools Act of Nineteen Hundred Ninety-Eight, Title 2 of Article 56 of the Education Law of the State of New York.

City shall mean The City of New York, New York.

Closing Date shall mean June 16, 2021, the date of the initial issuance and delivery of the Initial Bonds.

Code shall mean the Internal Revenue Code of 1986, as amended, including the regulations thereunder. All references to Sections of the Code or regulations thereunder shall be deemed to include any such Sections or regulations as they may hereafter be renumbered in any subsequent amendments to the Code or such regulations.

Computation Date shall have the meaning assigned to that term in the Tax Regulatory Agreement.

Computation Period shall have the meaning assigned to that term in the Tax Regulatory Agreement.

Conduct Representation shall mean any representation by the Institution under Section 2.2(t) of the Loan Agreement, or by any other Person in any Required Disclosure Statement delivered to the Issuer.

Control or **Controls**, including the related terms “controlled by” and “under common control with”, shall mean the power to direct the management and policies of a Person (x) through the ownership, directly or indirectly, of not less than a majority of its voting securities, (y) through the right to designate or elect not less than a majority of the members of its board of directors or trustees or other Governing Body, or (z) by contract or otherwise.

Costs of Issuance shall mean issuance costs with respect to the Initial Bonds described in Section 147(g) of the Code and any regulations thereunder, including but not limited to the following: Underwriter’s spread (whether realized directly or derived through the purchase of the Initial Bonds at a discount below the price at which they are expected to be sold to the public); counsel fees (including bond counsel, counsel to the Underwriter, Trustee’s counsel, Issuer’s counsel, Institution’s counsel, as well as any other specialized counsel fees incurred in connection with the borrowing); financial advisor fees of any financial advisor to the Issuer or the Institution incurred in connection with the issuance of the Initial Bonds; engineering and feasibility study costs; guarantee fees (other than Qualified Guarantee Fees, as defined in the Tax Regulatory Agreement); Rating Agency fees; Trustee and Paying Agent fees; accountant fees and other expenses related to issuance of the Initial Bonds; printing costs for the Initial Bonds and for the preliminary and final offering documents relating to the Initial Bonds; public approval and process costs; fees and expenses of the Issuer incurred in connection with the issuance of the Initial Bonds; Blue Sky fees and expenses; and similar costs.

Custodian means Bank of New York Mellon, as custodian under the Custody Agreement.

Custody Agreement means the custody agreement dated as of June 1, 2021 by and among the School, the Custodian and the Trustee, as said custody agreement may be amended or supplemented from time to time.

Custody Agreement Notice means the notice prepared by the Trustee in accordance with the provisions of the Custody Agreement and Section 5.03 of this Indenture. The form of Custody Agreement Notice shall be in the form set forth in Exhibit A to the Custody Agreement.

Debt Service Reserve Fund shall mean the special trust fund so designated, established pursuant to Section 5.01 of this Indenture.

Debt Service Reserve Fund Requirement shall mean, as of any particular date of computation, an amount (which amount may take the form of cash, Qualified Investments or any combination thereof) equal to the lesser of:

- (i) ten percent (10%) of the Net Proceeds (as defined in the Tax Regulatory Agreement) of the Outstanding Bonds;
- (ii) 100% of the greatest amount required in the then current or any future calendar year to pay the sum of the scheduled principal and interest payable on Outstanding Bonds; or
- (iii) 125% of the average annual amount required in the then current or any future calendar year to pay the sum of scheduled principal and interest on Outstanding Bonds.

Debt Service Reserve Fund Valuation Date shall mean June 15 and December 15 of each year commencing December 15, 2021.

Default Rate shall mean eight percent (8.00%) per annum.

Defaulted Interest shall have the meaning specified in Section 2.02(f).

Defeasance Obligations shall mean Government Obligations that are not subject to redemption prior to maturity.

Determination of Taxability means: (i) (A) the adoption, promulgation, or enactment of any federal statute or regulation, or any determination, decision, decree or ruling made by the Commissioner or any District Director of the Internal Revenue Service; (B) the issuance of a public or private ruling or a technical advice memorandum by the Internal Revenue Service in which the Institution or the School have participated or have been given the opportunity to participate, and which ruling or memorandum the Institution and the School, in their discretion, does not contest or from which no further right of judicial review or appeal exists; (C) a determination from which no further right of appeal exists of any court of competent jurisdiction in the United States in a proceeding in which the Institution or the School have participated or have been a party, or has been given the opportunity to participate or be a party; or (D) the admission in writing by the Institution or the School, in any case, to the effect that the interest payable on the Bonds of a Holder or a former Holder thereof is includable in gross income for federal tax purposes; or (ii) the receipt by the Trustee of a written opinion of

Nationally Recognized Bond Counsel to the effect that the interest payable on the Bonds is includable in gross income for federal income tax purposes or the refusal of any such counsel to render a written opinion that the interest on the Bonds is not so includable when required pursuant to a request by a Bondholder in accordance with the procedures set forth in this Indenture; provided, however, that no such Determination of Taxability described in clauses (i) (B) or (i)(C) of this definition shall be considered to exist unless (1) the Holder or former Holder of the Bond involved in such proceeding (a) gives the Institution and the Trustee prompt notice of the commencement thereof and (b) (if the Institution agrees to pay all expenses in connection therewith) offers the Institution the opportunity to control the defense thereof and (2) either (a) the Institution does not agree within thirty (30) days of receipt of such offer to pay such expenses and to control such defense or (b) the Institution shall exhaust or choose not to exhaust all available proceedings for the contest review, appeal or rehearing of such decree, judgment or action which the Institution determines to be appropriate. A Bondholder shall have the right to request the Trustee to obtain a written opinion of Nationally Recognized Bond Counsel pursuant to clause (ii) above, at the expense of the Institution, upon delivery by the Bondholder to the Institution of a letter from the Bondholder's accountant stating that, in his or her reasonable opinion, interest on the Bonds is includable in the gross income of such Bondholder for federal income tax purposes and stating the reasons for such determination. No Determination of Taxability described above will result from the inclusion of interest on any Bond in the computation of minimum or indirect taxes.

Disability Aid shall mean those certain federal and State payments payable to the Charter School for operations at the Facility attributable to students with disabilities.

DTC shall mean The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

Earnings Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

Education Aid shall mean, collectively, all School District Payments, State Education Operating Aid, Disability Aid and any Other Education Aid payable to the Charter School pursuant to the New York State Education Law or federal law for the payment of operations of the Charter School at the Facility.

Education Aid Funding Period shall have the meaning specified in Section 5.03(b).

Entity shall mean any of a corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, governmental authority or governmental instrumentality, but shall not include an individual.

Event of Default shall have the meaning specified in Section 8.01(a).

Event of Taxability shall mean the date specified in a Determination of Taxability as the date interest paid or payable on any Bond becomes includable for federal income tax purposes in the gross income of any Holder thereof as a consequence of any act, omission or event whatsoever, including any change of law, and regardless of whether the same was within or beyond the control of the Institution.

Facility shall mean, collectively, the Facility Personalty and the Facility Realty.

Facility Personalty shall mean those items of machinery, equipment and other items of personalty the acquisition and/or the installation of which is to be financed in whole or in part with the proceeds of the Bonds for installation or use at the Facility Realty as part of the Project pursuant to Section 3.2 of the Loan Agreement and described in Exhibit B - "Description of the Facility Personalty", together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Personalty shall, in accordance with the provisions of Sections 3.5 and 6.4 of the Loan Agreement, include all property substituted for or replacing items of Facility Personalty and exclude all items of Facility Personalty so substituted for or replaced, and further exclude all items of Facility Personalty removed as provided in Section 3.5 of the Loan Agreement.

Facility Realty shall mean, collectively, the Land and the Improvements.

Fitch shall mean Fitch, Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Fitch" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

GAAP shall mean those generally accepted accounting principles and practices that are recognized as such by the American Institute of Certified Public Accountants or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and that are consistently applied for all periods, after the Closing Date, so as to properly reflect the financial position of the Institution, except that any accounting principle or practice required to be changed by the Financial Accounting Standards Board (or other appropriate board or committee of the said Board) in order to continue as a generally accepted accounting principle or practice may be so changed.

Ground Lease shall mean the Ground Lease dated as of June 1, 2021, by and between the School, as lessor and the the Institution, as lessee with respect to the Land, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Governing Body shall mean, when used with respect to any Entity, its board of directors, board of trustees or individual or group of individuals by, or under the authority of which, the powers of such Entity are exercised.

Government Obligations shall mean the following:

- (i) direct and general obligations of, or obligations unconditionally guaranteed by, the United States of America;
- (ii) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the payment of which is unconditionally guaranteed as a full faith and credit obligation of the United States of America for the timely payment thereof; or
- (iii) securities or receipts evidencing ownership interests in obligations or specified portions (such as principal or interest) of obligations described in clauses (i) or (ii) above.

Improvements shall mean:

- (i) all buildings, structures, foundations, related facilities, fixtures and other improvements of every nature whatsoever existing on the Closing Date and hereafter erected or situated on the Land;
- (ii) any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Land (including any improvements or demolitions made as part of the Project Work pursuant to Section 3.2 of the Loan Agreement); and
- (iii) all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

Indenture shall mean this Indenture of Trust, dated as of June 1, 2021, between the Issuer and the Trustee, as from time to time amended or supplemented by Supplemental Indentures in accordance with Article XI.

Independent Engineer shall mean a Person (not an employee of either the Issuer or the Institution or any Affiliate of either thereof) registered and qualified to practice engineering or architecture under the laws of the State, selected by the Institution, and approved in writing by the Trustee (which approval shall not be unreasonably withheld).

Initial Bonds shall mean the Issuer's \$17,770,000 Revenue Bonds (Academic Leadership Charter School Project), Series 2021, authorized, issued, executed, authenticated and delivered on the Closing Date under this Indenture.

Institution shall mean Friends of Academic Leadership CS, LLC, a limited liability company organized and existing under the laws of the State of New York that is a disregarded entity for federal tax purposes, having as its sole member, the School, and its successors and assigns; provided, however, that nothing contained in this definition shall be

deemed to limit or modify the obligations of the Institution under Section 8.9 or 8.20 of the Loan Agreement.

Institution Documents shall mean the Bond Purchase Agreement, the Loan Agreement, the Mortgage, the Tax Regulatory Agreement, the Disclosure Agreement, the Ground Lease, the School Lease and any other Bond Documents to which the Institution is a party, each as may be amended from time to time.

Interest Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01.

Interest Payment Date shall mean, with respect to the Initial Bonds, June 15 and December 15 of each year (or, if any such day is not a Business Day, the immediately succeeding Business Day), commencing December 15, 2021, and with respect to any Series of Additional Bonds, the dates set forth therefor in the Supplemental Indenture pursuant to which such Series of Additional Bonds are issued.

Issuer shall mean Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State at the direction of the Mayor of the City, and its successors and assigns.

Issuer's Reserved Rights shall mean, collectively,

- (i) the right of the Issuer in its own behalf to receive all Opinions of Counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications required to be delivered to the Issuer under the Loan Agreement;
- (ii) the right of the Issuer to grant or withhold any consents or approvals required of the Issuer under the Loan Agreement;
- (iii) the right of the Issuer to enforce in its own behalf the obligation of the Institution under the Loan Agreement to complete the Project;
- (iv) the right of the Issuer to enforce or otherwise exercise in its own behalf all agreements of the Institution under the Loan Agreement with respect to ensuring that the Facility shall always constitute the Approved Facility;
- (v) the right of the Issuer to amend with the Institution the provisions of Section 5.1 of the Loan Agreement without the consent of the Trustee or any Bondholder;
- (vi) the right of the Issuer in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under the following Articles and Sections of the Loan Agreement: Article III (except for Section 3.1), Sections 4.4, 4.5 and 4.6, Article V, Article VI,

Article VIII (except for Section 8.26), Article IX, Article X and Sections 11.1, 11.3 and 11.5, and Article XII (except Section 12.2); and

(vii) the right of the Issuer in its own behalf to declare a default with respect to any of the Issuer's Reserved Rights and exercise the remedies set forth in Section 9.2(b) of the Loan Agreement.

Land shall mean that certain lot, piece or parcel of land in the Borough of the Bronx, Block 2301 and Lots 12,13,14, and 15, generally known by the street address 356-62 East 139th Street, Bronx, New York 10454, all as more particularly described in Exhibit A — "Description of the Land", together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 10.11(c) of the Loan Agreement.

Legal Requirements shall mean the Constitutions of the United States and the State of New York and all laws, statutes, codes, acts, ordinances, resolutions, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, certificates of occupancy, directions and requirements (including zoning, land use, planning, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wage, living wage, prevailing wage, sick leave, healthcare, benefits and employment practices) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, including those of the City, foreseen or unforeseen, ordinary or extraordinary, that are applicable now or may be applicable at any time hereafter to (i) the Institution, (ii) the Facility or any part thereof, or (iii) any use or condition of the Facility or any part thereof.

Loan shall mean the loan made by the Issuer to the Institution pursuant to the Loan Agreement as described in Section 4.1 thereof.

Loan Agreement shall mean the Loan Agreement, dated as of even date herewith, between the Issuer and the Institution, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with this Indenture.

Loan Payment Date shall mean the fifteenth (15th) day of January, March, May, July, September and November (or, if any such day shall not be a Business Day, the immediately preceding Business Day), commencing July 15, 2021.

Loss Event shall have the meaning specified in Section 6.1 of the Loan Agreement.

Majority Holders shall mean the Beneficial Owners of at least a majority in aggregate principal amount of the Bonds Outstanding, or, if the Bonds shall cease to be in book-entry form, the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding.

Moody's shall mean Moody's Investors Service Inc., a Delaware corporation, its successors and assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "Moody's" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

Mortgage shall mean the Mortgage and Security Agreement (Building Loan) relating to the Facility, dated as of even date herewith, and from the Institution to the Issuer and the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with this Indenture.

Mortgaged Property shall have the meaning specified in the Mortgage.

Nationally Recognized Bond Counsel shall mean Bryant Rabbino LLP or other counsel acceptable to the Issuer and the Trustee and experienced in matters relating to tax exemption of interest on bonds issued by states and their political subdivisions.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Issuer or the Trustee) incurred in the collection thereof.

Notice Parties shall mean the Issuer, the Institution, the School, the Bond Registrar, the Paying Agent, the Trustee and the Custodian.

Opinion of Counsel shall mean a written opinion of counsel for the Institution or any other Person (which counsel shall be reasonably acceptable to the Issuer and the Trustee) with respect to such matters as required under any Project Document or as the Issuer or the Trustee may otherwise reasonably require, and which shall be in form and substance reasonably acceptable to the Issuer and the Trustee.

Organizational Documents shall mean, (i) in the case of an Entity constituting a limited liability company, the articles of organization or certificate of formation, and the operating agreement of such Entity, (ii) in the case of an Entity constituting a corporation, the charter, articles of incorporation or certificate of incorporation, and the bylaws of such Entity, and (iii) in the case of an Entity constituting a general or limited partnership, the partnership agreement of such Entity.

Other Education Aid shall mean any federal or State payments, other than School District Payments, State Education Operating Aid or Disability Aid, payable to the Charter School for the purpose of funding operations of the Charter School at the Facility.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under this Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under this Indenture for cancellation;

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with Article X, there has been separately set aside and held in the Redemption Account of the Bond Fund either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys,

in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or redemption date, which payment or redemption date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in this Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III,

provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver hereunder or under any other Security Document, Bonds owned by the Institution or any Affiliate of the Institution shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Institution or any Affiliate of the Institution.

Participants shall mean those financial institutions for whom the Securities Depository effects book entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

Paying Agent shall mean any paying agent for the Bonds appointed pursuant to this Indenture (and may include the Trustee) and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to this Indenture.

Permitted Encumbrances shall mean:

(i) the Mortgage (as assigned by the Assignment of Mortgage), the Building Loan Agreement and any other Project Document;

(ii) liens for real estate taxes, assessments, levies and other governmental charges, the payment of which is not yet due and payable;

(iii) any mechanic's, workmen's, repairmen's, materialmen's, contractors', warehousemen's, carriers', suppliers' or vendors' lien, security interest, encumbrance or charge or right in respect thereof, placed on or with respect to the Facility or any part thereof, if payment is not yet due and payable, or if such payment is being disputed pursuant to Section 8.11(b) of the Loan Agreement;

(iv) utility, access and other easements and rights of way, restrictions and exceptions that an Authorized Representative of the Institution certifies to the Issuer and the Trustee will not materially interfere with or impair the Institution's use and enjoyment of the Facility as provided in the Loan Agreement;

(v) such minor defects, irregularities, encumbrances, easements, rights of way and clouds on title as normally exist with respect to property similar in character to the Facility as do not, as set forth in a certificate of an Authorized Representative of the Institution delivered to the Issuer and the Trustee, either singly or in the aggregate, render title to the Facility unmarketable or materially impair the property affected thereby for the purpose for which it was acquired or purport to impose liabilities or obligations on the Issuer;

(vi) those exceptions to title to the Mortgaged Property enumerated in the title insurance policy delivered pursuant to Section 3.7 of the Loan Agreement insuring the Trustee's mortgagee interest in the Mortgaged Property, a copy of which is on file at the offices of the Issuer and at the designated corporate trust office of the Trustee;

(vii) liens arising by reason of good faith deposits with the Institution in connection with the tenders, leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the Institution to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

(viii) any lien arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose at any time as required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Institution to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, old age pensions or other social security, or to

share in the privileges or benefits required for companies participating in such arrangements;

(ix) any judgment lien against the Institution, so long as the finality of such judgment is being contested in good faith and execution thereon is stayed;

(x) any purchase money security interest in movable personal property, including equipment leases and financing;

(xi) liens on property due to rights of governmental entities or third party payers for recoupment of excess reimbursement paid;

(xii) a lien, restrictive declaration or performance mortgage with respect to the operation of the Facility arising by reason of a grant or other funding received by the Institution from the City, the State or any governmental agency or instrumentality;

(xiii) any lien, security interest, encumbrances or charge which exists in favor of the Trustee or to which the Trustee shall consent in writing.

(xiv) any lien securing Additional Parity Indebtedness or junior Indebtedness of the Institution or the School, so long as permitted under the Loan Agreement and the School Lease.

Person shall mean an individual or any Entity.

Principal Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01.

Project shall mean the financing of (1) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space with a maximum physical capacity for 600 students in grades 3 to 5 (collectively, the “**New Facility**”) on an approximately .29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454, the making of renovations to such New Facility, and the acquisition and installation of machinery and equipment in connection therewith, all for use in the providing of services to the School, and (2) the payment of certain costs of issuing the Initial Bonds.

Project Costs shall mean:

(i) all costs of engineering and architectural services with respect to the Project, including the cost of test borings, surveys, estimates, permits, plans and specifications and for supervising demolition, construction and renovation, as well as for the performance of all other duties required by or consequent upon the proper construction of, and the making of alterations, renovations, additions and improvements in connection with, the completion of the Project;

(ii) all costs paid or incurred for labor, materials, services, supplies, machinery, equipment and other expenses and to contractors, suppliers, builders and materialmen in connection with the completion of the Project;

(iii) the interest on the Bonds during the construction and renovation of the Project;

(iv) all costs of contract bonds and of insurance that may be required or necessary during the period of Project construction and renovation;

(v) the cost of acquisition of the Facility Realty;

(vi) all costs of title insurance as provided in Section 3.7 of the Loan Agreement;

(vii) the payment of the Costs of Issuance with respect to the Initial Bonds;

(viii) the payment of the fees and expenses of the Trustee during the period of construction and renovation of the Project;

(ix) all costs which the Institution shall be required to pay, under the terms of any contract or contracts, for the completion of the Project, including any amounts required to reimburse the Institution for advances made for any item otherwise constituting a Project Cost or for any other costs incurred and for work done which are properly chargeable to the Project; and

(x) all other costs and expenses relating to the completion of the Project or the issuance of a Series of Additional Bonds.

“Project Costs” shall not include (i) fees or commissions of real estate brokers, (ii) moving expenses, or (iii) operational costs.

Project Documents shall mean, collectively, the Institution Documents and the Security Documents.

Project Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

Project Work shall mean (i) the design, construction and/or renovation of the Improvements, including the acquisition of building materials and fixtures, and (ii) the acquisition, whether by title or lease, of the Facility Personalty and any work required to install same.

Promissory Note shall mean, (i) with respect to the Initial Bonds, that certain Promissory Note in substantially the form of Exhibit H to the Loan Agreement, (ii) with respect to any Series of Additional Bonds, that certain Promissory Note in substantially the form of any

related Exhibit to an amendment to the Loan Agreement, and (iii) with respect to the Bonds, collectively, those certain Promissory Notes described in clauses (i) and (ii) above, and shall include in each case any and all amendments thereof and supplements thereto made in conformity with the Loan Agreement and this Indenture.

Purchase Price shall mean an amount equal to the Redemption Price that would be applicable to the Initial Bonds being purchased pursuant to Section 2.03(g) if such Initial Bonds were being optionally redeemed pursuant to Section 2.03(a) on the date such Initial Bonds are being so purchased, plus accrued interest thereon to the date of purchase.

Qualified Investments shall mean, to the extent permitted by applicable law, the following:

- (i) Government Obligations.
- (ii) Commercial paper, rated at least “P-1” by Moody’s or “A-1” by S&P, issued by a corporation or banking institution organized under the laws of the United States of America or any state thereof.
- (iii) Direct and general long-term obligations of any state of the United States on which the full faith and credit of the state is pledged and that are rated in either of the two highest rating categories by Moody’s or S&P.
- (iv) Direct and general short-term obligations of any state of the United States on which the full faith and credit of the state is pledged and which are rated in the highest rating category by Moody’s and S&P.
- (v) Interest bearing demand or time deposits with or certificates of deposit issued by a national banking association or a state bank or trust company which is a member of the Federal Deposit Insurance Corporation (“FDIC”) which are (a) continuously and fully insured by the FDIC, or (b) with a bank which has outstanding debt, or which is a subsidiary of a one-bank holding company which has outstanding debt, rated in either of the two highest rating categories -by Moody’s or S&P, or (c) continuously and fully secured by obligations of the type described in (i) and (ii) above which have a market value at all times at least equal to the principal amount of the deposit and which are held by the Trustee or its agent or, in the case of uncertificated securities, are registered in the name of the Trustee as pledgee.
- (vi) Repurchase agreements or other contracts for the purchase and sale of, and secured by obligations of the type specified in (i), (ii), (iv), (v) and (vi) above.
- (vii) Money market mutual funds with assets in excess of \$2,000,000,000 investing in obligations of the type specified in (i), (ii), (iii), (iv), (v), (vi) and (vii) above.

(viii) An investment agreement or other investment arrangement with any bank, trust company, national banking association or bank holding company in the United States, with any domestic branch of a foreign bank, or with any surety or insurance company, provided, that, (i) such investment agreement or other investment arrangement shall permit the full principal amount of the moneys so placed together with the investment income agreed to be paid to be available for use as and when required under this Indenture, and (ii) the Person with whom such investment agreement or other investment arrangement is made must be a Person whose unsecured or uncollateralized short term debt obligations are assigned a rating by S&P of SP 1+ or better or a Person assigned a financial strength rating of AAA by S&P, and whose domestic assets shall be in excess of \$10,000,000,000.

(ix) Any other investment permitted by law and at the written direction of the Majority Holders and the Institution.

Rating Agency shall mean any of S&P, Moody’s or Fitch and such other nationally recognized securities rating agency as shall have awarded a rating to the Initial Bonds.

Rating Category shall mean one of the generic rating categories of a Rating Agency without regard to any refinement or gradation of such rating by a numerical modifier or otherwise.

Rebate Amount shall have the meaning assigned to that term in the Tax Regulatory Agreement.

Rebate Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

Record Date shall mean, with respect to any Interest Payment Date for the Initial Bonds, the close of business on the fifteenth (15th) day of the month next preceding such Interest Payment Date, or, if such day is not a Business Day, the next preceding Business Day.

Redemption Account shall mean the special trust account of the Bond Fund so designated, established pursuant to Section 5.01.

Redemption Date shall mean the date fixed for redemption of Bonds subject to redemption in any notice of redemption given in accordance with the terms of this Indenture.

Redemption Price shall mean, with respect to any Bond or a portion thereof, the principal amount thereof to be redeemed in whole or in part, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or this Indenture.

Refunding Bonds shall have the meaning assigned to that term in Section 2.07(c).

Reimbursement Resolution shall mean the resolution adopted by the Institution on November 21, 2019 with respect to the Project and the debt financing thereof.

Related Security Documents shall mean all Security Documents other than this Indenture.

Renewal Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

Repair and Replacement Fund shall mean the special trust fund so designated and established pursuant to Section 5.01.

Repair and Replacement Fund Deposit shall mean \$1,667 per month, unless the amount in the Repair and Replacement Fund is at least equal to the Repair and Replacement Fund Requirement.

Repair and Replacement Fund Requirements shall mean \$100,000.

Representations Letter shall mean the Blanket Issuer Letter of Representations from the Issuer to DTC with respect to the Initial Bonds.

Responsible Officer shall mean, with respect to the Trustee, any officer within the corporate trust office of the Trustee, including any vice-president, any assistant vice-president, any secretary, any assistant secretary, the treasurer, any assistant treasurer or other officer of the corporate trust office of the Trustee customarily performing functions similar to those performed by any of the above designated officers, who has direct responsibility for the administration of the trust granted in this Indenture, and shall also mean, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

Revenue Fund shall mean the special trust fund so designated, established pursuant to Section 5.01.

S&P shall mean S&P Global Ratings, a division of Standard & Poor's Financial Services LLC, a Delaware limited liability company, a corporation organized and existing under the laws of the State, its successors and assigns, and if such entity shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Trustee, by notice to the other Notice Parties.

School shall mean Academic Leadership Charter School, a not-for-profit education corporation organized and existing under the laws of the State of New York and exempt from federal taxation pursuant to Section 501(c)(3) of the Code, which is the sole member of the Institution, and its successors and assigns.

School Construction Account means the account established pursuant to Section 5.01 for the deposit of equity contributions or other moneys delivered by the School to the Trustee to pay for Project Costs.

School District shall mean any applicable school district, as referenced in Section 2856 of the Charter School Act, which is obligated to make payments to the School pursuant to the Charter School Act.

School District Payments shall mean any and all payments made to or for the benefit of the Charter School with respect to its operations at the Facility pursuant to the Charter School Act.

School Lease shall mean the Lease dated as of June 1, 2021, by and between the Institution and the School, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

Securities Depository shall mean any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in the Bonds, and to effect transfers of book-entry interests in the Bonds in book-entry form, and includes and means initially DTC.

Security Documents shall mean, collectively, the Loan Agreement, the Promissory Note, this Indenture, the Custody Agreement, the Tax Regulatory Agreement, the Building Loan Agreement, the Mortgage, and the Assignment of Mortgage.

Series shall mean all of the Bonds designated as being of the same series authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu thereof or in substitution therefor pursuant to this Indenture.

Sinking Fund Installment shall mean an amount so designated and which is established for mandatory redemption on a date certain of the Bonds of any Series of Bonds pursuant to this Indenture. The portion of any such Sinking Fund Installment of a Series of Bonds remaining after the deduction of any amounts credited pursuant to this Indenture toward the same (or the original amount of any such Sinking Fund Installment if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Sinking Fund Installment for the purpose of calculation of Sinking Fund Installments of such Series of Bonds due on a future date.

Sinking Fund Installment Account shall mean the special trust account of the Bond Fund so designated, which is established pursuant to Section 5.01.

Special Record Date shall have the meaning specified in Section 2.02(f).

State shall mean the State of New York.

State Education Operating Aid shall mean all New York State Education Department operating aid payments appropriated for the purpose of funding operating expenses of the School with respect to its operations at the Facility on a per-pupil basis.

State Education Operating Aid Payment Date shall mean each July 1, September 1, November 1, January 1, March 1, and May 1, or such other dates as may in the future be established as the payment dates for Education Aid.

Supplemental Indenture shall mean any indenture supplemental to or amendatory of this Indenture, executed and delivered by the Issuer and the Trustee in accordance with Article XI.

Taxable Rate shall mean, in the event of a Determination of Taxability, the taxable rate of interest indicated in any Supplemental Indenture entered into and applicable at such time.

Tax Regulatory Agreement shall mean the Tax Regulatory Agreement, dated the Closing Date, from the Issuer and the Institution to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with this Indenture.

Trustee shall mean The Bank of New York Mellon, New York, New York, in its capacity as trustee under this Indenture, and its successors in such capacity and their assigns hereafter appointed in the manner provided in this Indenture.

Trust Estate shall mean all property, interests, revenues, funds, contracts, rights and other security granted to the Trustee under the Security Documents. Notwithstanding anything to the contrary, the following amounts shall not be considered Trust Estate and shall not be subject to the Lien of this Indenture, and such amounts shall not secure any amount payable on the Bonds: (A) amounts held by the Custodian pursuant to the terms of the Custody Agreement, and (B) amounts held in the Rebate Fund.

Yield shall have the meaning assigned to such term in the Tax Regulatory Agreement.

Section 1.02. Construction.

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Indenture, refer to this Indenture, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the Closing Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships and limited liability partnerships), trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Indenture, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Indenture, nor shall they affect its meaning, construction or effect.

(e) Unless the context indicates otherwise, references to designated “Exhibits”, “Articles”, “Sections”, “Subsections”, “clauses” and other subdivisions are to the designated Exhibits, Articles, Sections, Subsections, clauses and other subdivisions of or to this Indenture.

(f) The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

(g) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(h) Any definition of or reference to any agreement, instrument or other document herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein or herein).

(i) Any reference to any Person, or to any Person in a specified capacity, shall be construed to include such Person’s successors and assigns or such Person’s successors in such capacity, as the case may be.

ARTICLE II

AUTHORIZATION AND ISSUANCE OF BONDS

Section 2.01. Authorized Amount of Bonds; Pledge Effected by this Indenture. (a) No Bond may be authenticated and delivered under the provisions of this Indenture except in accordance with this Article. Except as provided in Sections 2.07 and 3.07, the total aggregate principal amount of Bonds that may be authenticated and delivered hereunder is limited to the Authorized Principal Amount.

(b) The proceeds of the Bonds deposited in the Project Fund and certain of the loan payments, receipts and revenues payable under the Loan Agreement, including moneys which are required to be set apart, transferred and pledged to the Revenue Fund, to the Earnings Fund, to the Bond Fund, to the Debt Service Reserve Fund, to the Repair and Replacement Fund, to the Renewal Fund or to certain special funds, including the investments, if any, thereof (subject to disbursements from such Funds in accordance with the provisions of this Indenture) are pledged by this Indenture for the payment of the principal, Purchase Price or Redemption Price (if any) of, Sinking Fund Installments for, and interest on, the Bonds. All such Funds shall be held by the Trustee in trust for the benefit of the Bondholders, and while held by the Trustee constitute part of the Trust Estate and be subject to the lien hereof. The Rebate Fund (including amounts on deposit therein) shall not be subject to any assignment, pledge, lien or security interest in favor of the Trustee or any Bondholder or any other Person. The Bonds shall be the special limited revenue obligations of the Issuer and shall be payable by the Issuer as to the principal, Purchase Price or Redemption Price (if any) of the Bonds, Sinking Fund Installments for the Bonds, and interest on the Bonds only from the Funds, special funds and loan payments, revenues and receipts pledged therefor. The Bonds are additionally secured by a pledge and assignment of the Promissory Note and substantially all of the Issuer's right, title and interest in and to the Loan Agreement (excluding the Issuer's Reserved Rights). In addition, the Institution has granted a mortgage lien on and security interest in its fee interest in the Mortgaged Property to the Issuer and the Trustee pursuant to the Mortgage, and the Issuer has assigned its right, title and interest in the Mortgage to the Trustee pursuant to the Assignment of Mortgage. Pursuant to the Custody Agreement, the School will cause payments of Education Aid due to the School to be delivered to the Custodian, and the Custodian will make transfers of certain money to the Trustee for deposit under this Indenture.

In no event shall any obligations of the Issuer under this Indenture or the Bonds or under the Loan Agreement or under any other Security Document or related document for the payment of money create a debt of the State or the City and neither the State nor the City shall be liable on any obligation so incurred, but any such obligation shall be a special limited revenue obligation of the Issuer secured and payable solely as provided in this Indenture.

Section 2.02. Issuance and Terms of the Initial Bonds. (a) The Initial Bonds in the Authorized Principal Amount shall be issued under and secured by this Indenture. The Initial Bonds shall be issuable in fully registered form without coupons substantially in the form set forth in Exhibit C and shall be dated as provided in Section 3.01.

(b) The Initial Bonds shall mature on the dates and in the principal amounts and bear interest at the annual rates, as set forth below:

| <u>Maturity Dates</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|-----------------------|-------------------------|----------------------|
| June 15, 2022 | \$885,000 | 4.0% |
| June 15, 2023 | 920,000 | 4.0 |
| June 15, 2024 | 960,000 | 4.0 |
| June 15, 2025 | 1,000,000 | 4.0 |
| June 15, 2026 | 1,040,000 | 4.0 |
| June 15, 2027 | 1,080,000 | 4.0 |
| June 15, 2028 | 1,125,000 | 4.0 |
| June 15, 2029 | 1,170,000 | 4.0 |
| June 15, 2030 | 1,215,000 | 4.0 |
| June 15, 2031 | 1,265,000 | 4.0 |
| June 15, 2036 | 7,110,000 | 4.0 |

Interest shall be payable on each Interest Payment Date and shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Notwithstanding anything herein to the contrary, the interest rate borne by the Initial Bonds shall not exceed the maximum permitted by, or enforceable under, applicable law.

(c) If there shall occur, and for so long as there shall continue to exist, an Event of Default (other than by reason of a failure to redeem the Initial Bonds in whole if there shall occur a Determination of Taxability), the rate of interest on the Initial Bonds shall be the Default Rate commencing with the date of the occurrence of the Event of Default and any additional interest thereby due with respect to a period of time for which interest has already been paid shall be payable on the Interest Payment Date next following the Event of Default. Any former Bondholder who was a Bondholder commencing on or after the date of the occurrence of the Event of Default, but who subsequent to such date sold or otherwise disposed of its Initial Bonds or whose Initial Bonds were redeemed or matured, shall be entitled to receive from the Institution under the Loan Agreement the following, in an amount allocable to such period during which it held the Initial Bonds subsequent to the Event of Default and the date upon the Initial Bonds were sold, or otherwise disposed of, or redeemed or matured: the difference between the rate of interest borne by the Initial Bonds prior to the Event of Default and the rate borne by the Initial Bonds on and subsequent to such date.

(d) If there shall occur a Determination of Taxability, the rate of interest on the Initial Bonds shall be the Taxable Rate commencing with the date of the Event of Taxability and any additional interest thereby due with respect to a period of time for which interest has already been paid shall be payable on the Interest Payment Date next following the Determination of Taxability. Any former Bondholder who was a Bondholder commencing on or after the date of the occurrence of an Event of Taxability, but who subsequent to such date sold or otherwise disposed of its Initial Bonds or whose Initial Bonds were redeemed or matured, shall be entitled to receive from the Institution under the Loan Agreement the following, in an amount allocable to such period during which it held the Initial Bonds subsequent to the Event of

Taxability and the date upon which the Initial Bonds were sold, or otherwise disposed of, or redeemed or matured: the difference between the rate of interest borne by the Initial Bonds prior to the Event of Taxability and the rate borne by the Initial Bonds on and subsequent to such date.

(e) The Initial Bonds shall be numbered from R-1 upward in consecutive numerical order. Initial Bonds issued upon any exchange or transfer hereunder shall be numbered in such manner as the Trustee in its discretion shall determine.

(f) The principal, Purchase Price or Redemption Price of, and Sinking Fund Installments for, all Initial Bonds shall be payable by check or draft or wire transfer of immediately available funds at maturity or upon earlier redemption to the Persons in whose names such Initial Bonds are registered on the bond registration books maintained by the Trustee as Bond Registrar at the maturity or redemption date thereof, provided, however, that the payment in full of any Initial Bond either at final maturity or upon redemption in whole shall only be payable upon presentation and surrender of such Initial Bonds at the designated corporate trust office of the Trustee or of any Paying Agent.

The interest payable on each Initial Bond on any Interest Payment Date shall be paid by the Trustee to the registered owner of such Initial Bond as shown on the bond registration books of the Trustee as Bond Registrar at the close of business on the Regular Record Date for such interest, (1) by check or draft mailed to such registered owner at his address as it appears on the bond registration books or at such other address as is furnished to the Trustee in writing by such owner, or (2) if such Initial Bonds are held by a Securities Depository or, at the written request addressed to the Trustee by any registered owner of Initial Bonds in the aggregate principal amount of at least \$1,000,000 that all such payments be made by wire transfer, by electronic transfer in immediately available funds to the bank for credit to the ABA routing number and account number filed with the Trustee no later than five (5) Business Days before an Interest Payment Date, but no later than a Regular Record Date for any interest payment.

Interest on any Initial Bond that is due and payable but not paid on the date due (“**Defaulted Interest**”) shall cease to be payable to the owner of such Initial Bond on the relevant Regular Record Date and shall be payable to the owner in whose name such Initial Bond is registered at the close of business on a special record date (the “**Special Record Date**”) for the payment of such Defaulted Interest, which Special Record Date shall be fixed in the following manner. It is provided in the Loan Agreement that the Institution shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Initial Bond and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and shall deposit with the Trustee at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment. Money deposited with the Trustee on account of Defaulted Interest shall be held in trust for the benefit of the owners of the Initial Bonds entitled to such Defaulted Interest as provided in this Section. Following receipt of such funds the Trustee shall fix the Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15)

or less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt of such funds by the Trustee. The Trustee shall promptly notify the Institution of such Special Record Date and, in the name and at the expense of the Institution, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each owner of an Initial Bond entitled to such notice at the address of such owner as it appears on the bond registration books not less than ten (10) days prior to such Special Record Date.

Subject to the foregoing provisions of this Section, each Initial Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Initial Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Initial Bond and each such Initial Bond shall bear interest from such date, so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

(g) The Initial Bonds are issuable in the form of fully registered bonds in the Authorized Denominations.

(h) Anything in the Initial Bonds or in this Indenture to the contrary notwithstanding, the obligations of the Issuer hereunder and under the Initial Bonds shall be subject to the limitation that payments of interest or other amounts on the Initial Bonds shall not be required to the extent that receipt of any such payment by a Holder of an Initial Bond would be contrary to the provisions of law applicable to such Holder which would limit the maximum rate of interest which may be charged or collected by such Holder of an Initial Bond.

Section 2.03. Redemption of Initial Bonds. (a) General Optional Redemption. The Initial Bonds are subject to redemption on or after June 15, 2028 in whole or in part on any date (but if in part in integral multiples of \$5,000), at the option of the Issuer (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay loan payments due under the Loan Agreement), at the Redemption Price of 100% of unpaid principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption.

(b) Extraordinary Redemption. The Initial Bonds are subject to redemption prior to maturity, at the option of the Issuer exercised at the direction of the Institution (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay Loan Payments due under the Loan Agreement), as a whole on any date, upon notice or waiver of notice as provided in this Indenture, at a Redemption Price equal to one hundred percent (100%) of the unpaid principal amount thereof plus accrued interest to the date of redemption, if one or more of the following events shall have occurred:

(i) The New Facility shall have been damaged or destroyed to such extent that, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee, (A) the New Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the School is thereby prevented or likely to be prevented from carrying on its normal operation at the New Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the New

Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or

(ii) Title to, or the temporary use of, all or substantially all of the New Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the School being thereby prevented or likely to be prevented from carrying on its normal operation at the New Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee; or

(iii) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Institution and/or the School, the Loan Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein or unreasonable burdens or excessive liabilities are imposed upon the Institution and/or the School by reason of the operation of the New Facility.

If the Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the Institution shall deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution stating that, as a result of the occurrence of the event giving rise to such redemption, the School has discontinued, or at the earliest practicable date will discontinue, its operation of the New Facility for its intended purposes.

(c) Mandatory Sinking Fund Installment Redemption. The Initial Bonds maturing June 15, 2036 are subject to mandatory sinking fund redemption by the Issuer prior to maturity, in part by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date of redemption, from mandatory Sinking Fund Installments on the dates and in the principal amounts set forth below, provided that the amounts of such Sinking Fund Installments shall be reduced by the credits provided for in this Indenture:

| Sinking Fund Installment Payment Date (June 15) | Sinking Fund Installment |
|--|-------------------------------------|
| 2032 | \$1,315,000 |
| 2033 | 1,365,000 |
| 2034 | 1,420,000 |
| 2035 | 1,475,000 |
| 2036* | 1,535,000 |

* Final Maturity

(d) Mandatory Redemption from Excess Proceeds and Certain Other Amounts. The Initial Bonds shall be redeemed at any time in whole or in part by lot prior to maturity in the event and to the extent:

(i) in the case of the Initial Bonds only, excess Bond proceeds shall remain after the completion of the Project,

(ii) in the case of the Initial Bonds but only on a Pro Rata Basis, excess title insurance or property insurance proceeds or condemnation awards shall remain after the application thereof pursuant to the Loan Agreement and this Indenture, or

(iii) in the case of the Initial Bonds but only on a Pro Rata Basis, excess proceeds shall remain after the release or substitution of New Facility Realty or New Facility Personalty,

and in each case at a Redemption Price equal to one hundred percent (100%) of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the Redemption Date.

(e) Mandatory Redemption upon Failure to Operate the New Facility for the Approved Project Operations, Material Violation of Material Legal Requirements, False Representation or Failure to Maintain Liability Insurance. The Bonds are subject to mandatory redemption prior to maturity, at the option of the Issuer, as a whole only, in the event (i) the Issuer shall determine that (w) the Institution and/or the School is operating the New Facility or any portion thereof, or is allowing the New Facility or any portion thereof to be operated, not for the Approved Project Operations, (x) the Institution, the School, any Principal of the Institution and/or of the School or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Institution and/or the School has committed a material violation of a material Legal Requirement, (y) any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, or (ii) the Institution and/or the School shall fail to obtain or maintain the liability insurance with respect to the New Facility required under the Loan Agreement, and, in the case of clause (i) or (ii) above, the Institution and/or the School shall fail to cure any such default or failure within the applicable time periods set forth in the Loan Agreement following the receipt by the Institution and/or the School of written notice of such default or failure from the Issuer and a demand by the Issuer on the Institution and/or the School to cure the same. Any such redemption shall be made upon notice or waiver of notice to the Bondholders as provided in this Indenture, at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption.

(f) Mandatory Taxability Redemption. Upon the occurrence of a Determination of Taxability, the Bonds shall be redeemed prior to maturity on any date within one hundred eighty (180) days following such Determination of Taxability, at a Redemption Price equal to the principal thereof, together with accrued interest to the Redemption Date. The

Bonds shall be redeemed in whole unless redemption of a portion of the Bonds Outstanding would have the result that interest payable on the Bonds remaining Outstanding after such redemption would not be includable in the gross income of any Holder of a Bond. In such event, the Bonds shall be redeemed in such amount as is deemed necessary in the opinion of Nationally Recognized Bond Counsel to accomplish that result.

(g) Purchase in Lieu of Optional Redemption. In lieu of calling the Initial Bonds for optional redemption, the Initial Bonds are subject to mandatory tender for purchase at the direction of the Issuer, upon the direction of the Institution, in whole or in part (and, if in part, in such manner as determined by the Institution) on any date on or after June 15, 2028, at a Purchase Price equal to the applicable Redemption Price for any optional redemption of such Bonds as described above, plus accrued interest to the purchase date. Purchases of tendered Bonds may be made without regard to any provision of this Indenture relating to the selection of Bonds in a partial optional redemption. The Bonds purchased pursuant to any mandatory tender(s) are required to be cancelled, and until cancelled, shall not be deemed Outstanding.

Purchases in lieu of an optional redemption are permitted in this Indenture, with the consent of the Issuer, upon the delivery to the Issuer and the Trustee of (i) an opinion of Nationally Recognized Bond Counsel addressed to the Issuer and the Trustee substantially to the effect that (A) such purchases in lieu of optional redemption comply with the provisions of this Indenture and (B) neither such purchases in lieu of an optional redemption nor any transaction directly related thereto will adversely affect the exclusion from gross income of interest on the Bonds for purposes of federal income taxation, and (ii) such other opinions, certificates or documentation as the Issuer may require.

(h) Redemption of Initial Bonds permitted or required by this Article II shall be made as follows, and the Trustee shall give the notice of redemption required by Section 6.03 in respect of each such redemption:

(1) Redemption shall be made pursuant to the general optional redemption provisions of Section 2.03(a) or (b) at such times as are permitted under such Section and, in the case of Section 2.03(a), in such principal amounts, as the Institution shall request in a written notice to the Trustee in accordance with Section 4.3(c) of the Loan Agreement.

(2) Redemption shall be made pursuant to the mandatory Sinking Fund Installment redemption provisions of Section 2.03(c) as and when required by this Section without the necessity of any request by, or notification from the Issuer or from the Institution, but subject to the provisions of Section 5.05(d) and (f).

(3) Redemption shall be made pursuant to the mandatory redemption provisions of Section 2.03(d) at the earliest possible date following the deposit of the excess proceeds or other amounts in the Redemption Account of the Bond Fund, without the necessity of any instructions or further act of the Issuer or the Institution.

(4) Redemption shall be made pursuant to the mandatory redemption provisions of Section 2.03(e) on the date specified therein in the event redemption is required under such circumstances, without the necessity of any instructions or further act of the Institution.

(5) Redemption shall be made pursuant to the mandatory taxability redemption provisions of Section 2.03(f) at the earliest possible date, but no later than one hundred twenty (120) days following the Determination of Taxability, without the necessity of any instructions or further act of the Issuer or the Institution.

(i) Selection of Bonds for Redemption. In the event of redemption of less than all the Outstanding Bonds of the same Series and maturity, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair, except that (i) the Bonds to be redeemed from Sinking Fund Installments shall be redeemed by lot, and (ii) to the extent practicable, the Trustee shall select the Bonds for redemption such that no Bond shall be of a denomination of less than the Authorized Denomination for such Bonds. In the event of redemption of less than all the Outstanding Bonds of the same Series stated to mature on different dates, the principal amount of such Series of Bonds to be redeemed shall be applied in inverse order of maturity of the Outstanding Bonds to be redeemed and by lot within a maturity. The portion of the Bonds to be redeemed in part shall be in the principal amount of the minimum Authorized Denomination thereof or some integral multiple thereof and, in selecting Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of such Series which is obtained by dividing the principal amount of such registered Bond by the minimum Authorized Denomination thereof (referred to below as a "unit") then issuable rounded down to the integral multiple of such minimum Authorized Denomination. If it is determined that one or more, but not all, of the units of principal amount represented by any such Bond is to be called for redemption, then, upon notice of intention to redeem such unit or units, the Holder of such Bond shall forthwith surrender such Bond to the Trustee for (a) payment to such Holder of the Redemption Price of the unit or units of principal amount called for redemption and (b) delivery to such Holder of a new Bond or Bonds in the aggregate unpaid principal amount of the unredeemed balance of the principal amount of such Bond. New Bonds of a maturity representing the unredeemed balance of the principal amount of such Bond shall be issued to the registered Holder thereof, without charge therefor. If the Holder of any such Bond of a denomination greater than a unit shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the unit or units of principal amount called for redemption (and to that extent only).

Section 2.04 Delivery of Initial Bonds. The Initial Bonds shall be executed in the form and manner set forth in this Indenture and shall be deposited with the Trustee and thereupon shall be authenticated by the Trustee. Upon payment to the Trustee of the proceeds of sale of the Initial Bonds including the interest, if any, accrued on the Initial Bonds to the Closing Date, the Initial Bonds shall be delivered by the Trustee on behalf of the Issuer to or upon the order of the purchaser(s) thereof, but only upon receipt by the Trustee of:

(a) a copy, duly certified by the Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, of the Bond Resolution;

(b) an original executed counterpart of all Security Documents and a copy of other executed Project Document;

(c) a written opinion by Nationally Recognized Bond Counsel to the effect that the issuance of the Initial Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled; and

(d) the written order to the Trustee executed by an Authorized Representative of the Issuer to authenticate and deliver the Initial Bonds to the purchaser(s) therein identified upon payment to the Trustee for the account of the Issuer of the purchase price therein specified, plus accrued interest, if any.

Section 2.05 Execution of Bonds. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signature of the Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel of the Issuer, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the manual or facsimile signature of the Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel of the Issuer. Any facsimile signatures shall have the same force and effect as if the appropriate officers had personally signed each of said Bonds. In case one or any of the officers who shall have signed or attested the Bonds or whose reproduced facsimile signature appears thereon shall cease to be such officer or officers before the Bonds so signed and attested shall have been actually issued and delivered, the Bonds may be issued and delivered as though the person who signed or attested or whose reproduced facsimile signature appears on the Bonds had not ceased to be such officer. Neither the members, directors, officers or agents of the Issuer nor any person executing the Bonds shall be liable personally or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 2.06 Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication, in substantially the form set forth in the Form of Initial Bond in Exhibit C, duly executed by the Trustee, shall be entitled to any right or benefit under this Indenture. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Indenture unless and until such certificate of authentication on such Bond shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Trustee shall note, with respect to each Bond to be authenticated under this Indenture in the space provided in the certificate of authentication for such Bond, the date of the authentication and delivery of such Bond. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds.

Section 2.07 Additional Bonds. (a) So long as the Promissory Note, the Loan Agreement and the other Security Documents are each in effect, one or more Series of

Additional Bonds may be issued, authenticated and delivered upon original issuance for the purpose of (i) completing the Project, (ii) providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, (iii) providing extensions, additions or improvements to the Facility, the purpose of which shall be for the Approved Project Operations, or (iv) refunding Outstanding Bonds. Such Additional Bonds shall be payable from the loan payments, receipts and revenues of the Facility including such extensions, additions and improvements thereto. Prior to the issuance of a Series of Additional Bonds and the execution of a Supplemental Indenture in connection therewith, the Issuer and the Institution shall enter into an amendment to the Loan Agreement, and the Institution shall execute a new Promissory Note, which shall provide, among other things, that the loan payments payable by the Institution under the Loan Agreement and the aggregate amount to be paid under all Promissory Notes shall be increased and computed so as to amortize in full the principal of and interest on such Additional Bonds and any other costs in connection therewith. In addition, the Institution and the Issuer shall enter into an amendment to each Security Document with the Trustee which shall provide that the amounts guaranteed or otherwise secured thereunder be increased accordingly.

(b) Each such Series of Additional Bonds shall be deposited with the Trustee and thereupon shall be authenticated by the Trustee. Upon payment to the Trustee of the proceeds of sale of such Series of Additional Bonds, they shall be made available by the Trustee for pick-up by the order of the purchaser or purchasers thereof, but only upon receipt by the Trustee of:

(1) a copy of the resolution, duly certified by the Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel of the Issuer, authorizing, issuing and awarding the Series of Additional Bonds to the purchaser or purchasers thereof and providing the terms thereof and authorizing the execution of any Supplemental Indenture and any amendments of or supplements to the Loan Agreement and any other Security Document to which the Issuer shall be a party;

(2) original executed counterparts of the Supplemental Indenture and an amendment of or supplement to the Loan Agreement expressly providing that, to the extent applicable, for all purposes of the Supplemental Indenture, the Promissory Note, the Loan Agreement, the Custody Agreement, the Mortgage, the Facility referred to therein and the premises related or subject thereto shall include the buildings, structures, improvements, machinery, equipment or other facilities being financed, and the Bonds referred to therein shall mean and include the Series of Additional Bonds being issued as well as the Initial Bonds and any Series of Additional Bonds theretofore issued;

(3) a written opinion by Nationally Recognized Bond Counsel, to the effect that the issuance of the Series of Additional Bonds and the execution thereof have been duly authorized and that all conditions precedent to the delivery thereof have been fulfilled and that the issuance of the Series of Additional Bonds will not cause the interest on any Series of Bonds Outstanding to become includable in gross income for federal income tax purposes;

(4) except in the case of a Series of Refunding Bonds (defined below) refunding all Outstanding Bonds, a certificate of an Authorized Representative of the Institution to the effect that each Security Document to which it is a party continues in full force and effect and that there is no Event of Default nor any event which upon notice or lapse of time or both would become an Event of Default;

(5) written evidence from each Rating Agency by which any Series of Outstanding Bonds are then rated, if any, to the effect that it has reviewed the documentation pertaining to the issuance of the Series of Additional Bonds, and that the issuance of such Series of Additional Bonds will not result in a withdrawal, a suspension or a reduction of the long and short-term ratings, if applicable, then assigned to any Series of Outstanding Bonds by such Rating Agency;

(6) an original, executed counterpart of the new Promissory Note and the amendment to each Security Document; and

(7) a written order to the Trustee executed by an Authorized Representative of the Issuer to authenticate and make available for pick-up the Series of Additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of the purchase price therein specified, plus accrued interest, if any.

(8) an amount of money for deposit in the applicable Debt Service Reserve Fund such that the aggregate amount on deposit in such Fund shall be at least equal to the applicable Debt Service Reserve Requirement after giving effect to the issuance of such Series of Additional Bonds; and

(9) evidence satisfactory to the Trustee that the additional Indebtedness of the Institutions incurred in connection with the issuance of the Additional Bonds complies with the requirements of Section 8.28 of the Loan Agreement.

(c) (1) Upon the request of the Institution, one or more Series of Additional Bonds may be authenticated and made available for pick-up upon original issuance to refund (“**Refunding Bonds**”) all Outstanding Bonds or any Series of Outstanding Bonds or any part of one or more Series of Outstanding Bonds. Bonds of a Series of Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding and to make such deposits required by the provisions of this Indenture and of the resolution authorizing said Series of Refunding Bonds. In the case of the refunding under this Section 2.07 of less than all Bonds Outstanding of any Series or of any maturity within such Series, the Trustee shall proceed to select such Bonds in accordance with Section 6.02.

(2) A Series of Refunding Bonds may be authenticated and made available for pick-up only upon receipt by the Trustee (in addition to the receipt by it of the documents required by Section 2.07(b), as may be applicable) of:

(a) Irrevocable instructions from the Issuer to the Trustee, satisfactory to it, to give due notice of redemption pursuant to Section 6.03 to the Holders of all the Outstanding Bonds to be refunded prior to maturity on the redemption date specified in such instructions; and

(b) Either:

(i) moneys in an amount sufficient to effect payment at maturity or upon redemption at the applicable Redemption Price of the Bonds to be refunded, together with accrued interest on such Bonds to the maturity or redemption date, which moneys shall be held by the Trustee or any Paying Agent in a separate account irrevocably in trust for and assigned to the respective Holders of the Outstanding Bonds being refunded, or

(ii) Defeasance Obligations in such principal amounts, having such maturities, bearing such interest, and otherwise having such terms and qualifications, as shall be necessary to comply with the provisions of Article X, and any moneys required pursuant to said Section (with respect to all Outstanding Bonds or any part of one or more Series of Outstanding Bonds being refunded), which Defeasance Obligations and moneys shall be held in trust and used only as provided in Article X.

(3) The Institution shall furnish to the Trustee and the Issuer at the time of delivery of the Series of Refunding Bonds a certificate of an independent certified public accountant stating that the Trustee and/or the Paying Agent (and/or any escrow agent as shall be appointed in connection therewith) hold in trust the moneys or such Defeasance Obligations and moneys required to effect such payment at maturity or earlier redemption.

(d) Each Series of Additional Bonds issued pursuant to this Section shall be equally and ratably secured under this Indenture with the Initial Bonds and all other Series of Additional Bonds, if any, issued pursuant to this Section, without preference, priority or distinction of any Bond over any other Bonds except as expressly provided in or permitted by this Indenture.

(e) No Series of Additional Bonds shall be issued unless the Promissory Note, the Loan Agreement, the Mortgage, the Custody Agreement and the other Security Documents are in effect and, at the time of issuance, there is no Event of Default or any event which upon notice or lapse of time or both would become an Event of Default.

Section 2.08 CUSIP Numbers. The Issuer in issuing the Bonds may use CUSIP numbers (if then generally in use), and, if so, the Trustee shall use such CUSIP numbers in notices of redemption as a convenience to registered owners; provided that any such notice

may state that no representation is made as to the correctness of such numbers either as printed on the Bonds or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Bonds, and any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee of any change in the CUSIP numbers of which it has actual knowledge.

Section 2.09 Book Entry Bonds. (a) Except as provided in Section 2.09(c), the Holder of all of the Initial Bonds shall be DTC (the “**Securities Depository**”) and the Initial Bonds shall be registered in the name of Cede & Co., as nominee for DTC. Payment of interest for any Initial Bond registered in the name of Cede & Co. shall be made by wire transfer of New York Clearing House or equivalent same day funds to the account of Cede & Co. on the Interest Payment Date for the Initial Bonds at the address indicated for Cede & Co. in the registration books of the Issuer kept by the Trustee. It is anticipated that during the term of the Initial Bonds, the Securities Depository will make book entry transfers among its Participants and receive and transmit payment of principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Initial Bonds to the Participants until and unless the Trustee authenticates and delivers replacement bonds to the Beneficial Owners as described in Section 2.09(c).

(b) The Initial Bonds shall be initially issued in the form of a separate single authenticated fully registered certificate for each maturity thereof. Upon initial issuance, the ownership of such Initial Bonds shall be registered in the registration books of the Issuer kept by the Trustee in the name of Cede & Co., as nominee of DTC. The Trustee, the Bond Registrar, the Paying Agent and the Issuer shall treat DTC (or its nominee) as the sole and exclusive Holder of the Initial Bonds registered in its name for the purposes of payment of the principal, Sinking Fund Installments, Redemption Price of or interest on the Initial Bonds, selecting the Initial Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Bondholders under this Indenture, registering the transfer of Initial Bonds, obtaining any consent or other action to be taken by Holders of the Initial Bonds and for all other purposes whatsoever; and neither the Trustee, the Bond Registrar, the Paying Agent, the Institution nor the Issuer shall be affected by any notice to the contrary. All notices with respect to such Initial Bond shall be made and given, respectively, to DTC as provided in the Representations Letter. Neither the Trustee, the Bond Registrar, the Paying Agent nor the Issuer shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Initial Bonds under or through DTC or any Participant, or any other Person that is not shown on the registration books of the Trustee as being a Holder, with respect to the accuracy of any records maintained by DTC or any Participant; the payment of DTC or any Participant of any amount in respect of the principal, Sinking Fund Installments, Redemption Price of or interest on the Initial Bonds; any notice that is permitted or required to be given to Bondholders under this Indenture or any other Security Documents; the selection by DTC or any Participant of any Person to receive payment in the event of a partial redemption of the Initial Bonds; or any consent given or other action taken by DTC as Bondholder. The Trustee shall pay all principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Initial Bonds only to or “upon the order of” (as that term is used in the Uniform Commercial Code as adopted in the State) DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Issuer’s obligations with respect to the principal, Purchase Price or Redemption Price of, Sinking

Fund Installments for, and interest on the Initial Bonds to the extent of the sum or sums so paid. Except as otherwise provided in Section 2.09(c), no Person other than DTC shall receive an authenticated Initial Bond certificate evidencing the obligation of the Issuer to make payments of principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Initial Bonds pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Indenture with respect to transfers of Bonds, the word “Cede & Co.” in this Indenture shall refer to such new nominee of DTC.

(c) In the event the Issuer determines that it is in the best interest of the Beneficial Owners that they be able to obtain Initial Bond certificates, the Issuer may notify DTC and the Trustee, whereupon DTC will notify the Participants, of the availability through DTC of Initial Bond certificates. In such event, the Trustee shall issue, transfer and exchange Initial Bond certificates as requested by DTC in appropriate amounts within the guidelines set forth in this Indenture. DTC may determine to discontinue providing its services with respect to the Initial Bonds at any time by giving written notice to the Issuer and the Trustee and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the Issuer and the Trustee shall be obligated to deliver Initial Bond certificates as described in this Indenture. In the event Initial Bond certificates are issued, the provisions of this Indenture shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on such certificates. Whenever DTC requests the Issuer and the Trustee to do so, the Issuer will direct the Trustee (at the sole cost and expense of the Institution) to cooperate with DTC in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Initial Bonds to any DTC Participant having Initial Bonds credited to its DTC account or (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Initial Bonds.

(d) In connection with any notice or other communication to be provided to Bondholders pursuant to this Indenture or any other Security Document by the Issuer or the Trustee with respect to any consent or other action to be taken by Bondholders, the Issuer or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible. Such notice to DTC shall be given only when DTC is the sole Bondholder.

(e) NEITHER THE ISSUER, THE INSTITUTION NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO THE PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT, SINKING FUND INSTALLMENTS, REDEMPTION PRICE OF OR INTEREST ON THE INITIAL BONDS; (3) THE DELIVERY BY DTC OR ANY PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER THAT IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS INDENTURE TO

BE GIVEN TO BONDHOLDERS; OR (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE INITIAL BONDS.

(f) SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE INITIAL BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE INITIAL BONDHOLDERS OR REGISTERED HOLDERS OF THE INITIAL BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE INITIAL BONDS.

(g) For so long as the Holder of all of the Initial Bonds shall be DTC, and all Initial Bonds shall be registered in the name of Cede & Co. as nominee for DTC, (i) only DTC may tender Initial Bonds upon redemption or retirement in whole and (ii) unless all Initial Bonds are being redeemed or retired in whole, Initial Bonds shall not be required to be presented to the Trustee for payment of principal, Sinking Fund Installments or Redemption Price except upon final maturity or redemption in whole.

(h) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the Issuer may appoint a successor Securities Depository provided the Trustee receives written evidence satisfactory to the Trustee with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository that is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Trustee upon its receipt of an Initial Bond or Bonds for cancellation shall cause the delivery of an Initial Bond or Bonds to the successor Securities Depository in appropriate Authorized Denominations and form as provided herein.

ARTICLE III

GENERAL TERMS AND PROVISIONS OF BONDS

Section 3.01. Date of Bonds. The Initial Bonds shall be dated their date of original issuance (subject to the provisions set forth below with respect to transfers and exchanges) and will bear interest from their date at the applicable rate or rates until the entire principal amount of the Initial Bonds has been paid. Bonds authenticated prior to the first Interest Payment Date shall bear interest from their date of original issuance. Bonds issued in exchange for or upon the registration of transfer of Bonds on or after the first Interest Payment Date thereon shall bear interest from and including the Interest Payment Date next preceding the date of the authentication thereof, unless the date of such authentication shall be an Interest Payment Date to which interest on the Bonds has been paid in full or duly provided for, in which case they shall bear interest from and including such Interest Payment Date; provided that if, as shown by the records of the Trustee, interest on the Bonds shall be in default, Bonds issued in exchange for or upon the registration of transfer of Bonds shall bear interest from the date to which interest has been paid in full on the Bonds, or if no interest has been paid on the Bonds, the date of the first delivery of fully executed and authenticated Bonds hereunder.

Section 3.02. Form and Denominations. Bonds shall be issued in fully registered form, without coupons, in any Authorized Denomination not exceeding the aggregate principal amount of Bonds of the same series, maturity and interest rate as the Bond for which the denomination is to be specified. Subject to the provisions of Section 3.03, the Initial Bonds shall be in substantially the form set forth in Exhibit C, with such variations, omissions and insertions as are permitted or required by this Indenture.

Section 3.03. Legends. Each Bond shall contain on the face thereof a statement to the effect that "THIS BOND SHALL NEVER CONSTITUTE A DEBT OR INDEBTEDNESS OF THE STATE OF NEW YORK OR OF THE CITY OF NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR THE CITY OF NEW YORK SHALL BE LIABLE HEREON, NOR SHALL THIS BOND BE PAYABLE OUT OF ANY FUNDS OF THE BUILD NYC RESOURCE CORPORATION OTHER THAN THOSE PLEDGED THEREFOR." The Bonds may in addition contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Indenture as may be necessary or desirable to comply with custom or otherwise as may be determined by the Issuer prior to the delivery thereof.

Section 3.04. Medium of Payment. The principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest on the Bonds shall be payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, is legal tender for the payment of public and private debts. Such payment may be made as provided in Section 2.02.

Section 3.05. Bond Details. Subject to the provisions hereof, the Bonds shall be dated, shall mature in such years and such amounts, shall bear interest at such rate or rates per annum, shall be subject to redemption on such terms and conditions and shall be payable as to

principal or Redemption Price, if any, Sinking Fund Installments, and interest at such place or places as shall be specified in this Indenture.

Section 3.06. Interchangeability, Transfer and Registry. (a) Each Bond shall be transferable only upon compliance with the restrictions on transfer set forth on such Bond and only upon the books of the Issuer, which shall be kept for the purpose at the designated corporate trust office of the Trustee, by the registered owner thereof in person or by his duly authorized attorney-in-fact, upon surrender of such Bond together with a written instrument of transfer in the form appearing on such Bond duly executed by the registered owner or his duly authorized attorney-in-fact with a guaranty of the signature thereon by a member of the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15. Upon the transfer of any Bond the Trustee shall prepare and issue in the name of the transferee one or more new Bonds of the same aggregate principal amount, related Series, maturity and interest rate as the surrendered Bond.

(b) Any Bond, upon surrender thereof at the designated corporate trust office of the Trustee in the City with a written instrument of transfer in the form appearing on such Bond, duly executed by the registered owner or his duly authorized attorney-in-fact, with a guaranty of the signature thereon by a member of the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15, may, at the option of the owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same Series, maturity and interest rate of any other Authorized Denominations. However, the Trustee will not be required to (i) transfer or exchange any Bonds during the period between a Record Date and the following Interest Payment Date or during the period of fifteen (15) days next preceding any day for the selection of Bonds to be redeemed, or (ii) transfer or exchange any Bonds selected, called or being called for redemption in whole or in part.

(c) The Issuer, the Bond Registrar, the Trustee and any Paying Agent may deem and treat the Person in whose name any Bond shall be registered as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price, if any, of, Sinking Fund Installments for, and interest on such Bond and for all other purposes, and all payments made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer, the Institution, the Bond Registrar, the Trustee nor any Paying Agent shall be affected by any notice to the contrary.

(d) In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Issuer or the Trustee may make a charge sufficient to reimburse it for any expenses and any tax, fee or other governmental charge required to be paid in connection therewith; any such expenses shall be paid by the Institution but any such tax, fee or other governmental charge shall be paid by the Holder requesting such transfer or exchange.

Section 3.07. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, maturity, unpaid principal amount and interest rate as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and in substitution for the Bond destroyed, stolen or lost, upon filing with the Trustee evidence reasonably satisfactory to it that such Bond has been destroyed, stolen or lost, and upon furnishing the Issuer and the Trustee with indemnity (an undertaking from an insurance company acceptable to the Trustee and the Issuer) satisfactory to the Trustee and to the Issuer and complying with such other reasonable regulations as the Trustee may prescribe and paying such expenses as the Issuer and the Trustee may incur. All Bonds so surrendered to the Trustee shall be cancelled by it. Every new Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is destroyed, lost or stolen, shall, with respect to such Bond, constitute an additional contractual obligation of the Issuer whether or not the destroyed, lost or stolen Bond shall be found and shall be enforceable at any time, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Bonds duly issued hereunder. In the event any such destroyed, stolen or lost Bond shall have matured, or be about to mature, the Issuer may, instead of issuing a new Bond, cause the Trustee to pay the same without surrender thereof upon compliance with the condition in the first sentence of this Section out of moneys held by the Trustee and available for such purpose. All Bonds shall be held and owned upon the express condition (to the extent lawful) that the foregoing provisions are exclusive with respect to the replacement or payment of any mutilated, destroyed or lost or stolen Bond and shall preclude any and all other rights and remedies, notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement or payment of negotiable instruments or other securities without their surrender.

Section 3.08. Cancellation and Destruction of Bonds. All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds together with all Bonds purchased by the Trustee, shall thereupon be promptly cancelled. Bonds so cancelled shall be destroyed by the Trustee.

Section 3.09. Requirements With Respect to Transfers. In all cases in which the privilege of transferring Bonds is exercised, the Issuer shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such transfer shall forthwith be cancelled by the Trustee. For every such transfer of Bonds, the Issuer or the Trustee may, as a condition precedent to the privilege of making such transfer, make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer and may charge a sum sufficient to pay the cost of preparing each new Bond issued upon such transfer, which sum or sums shall be paid by the Person requesting such transfer.

Section 3.10. Bond Registrar. The Trustee shall also be Bond Registrar for the Bonds, and shall maintain a register showing the names of all registered Holders of Bonds, Bond numbers and amounts, and other information appropriate to the discharge of its duties hereunder. The Trustee shall make available to the Institution for its inspection during normal business

hours the registration books for the Bonds, as may be requested by the Institution in connection with any purchase or tender offer by it with respect to the Bonds.

Section 3.11. Payments Due on Saturdays, Sundays and Holidays. In any case where any payment date of principal, Sinking Fund Installment and/or interest on the Bonds, or the date fixed for redemption of any Bonds, shall be a day other than a Business Day, then payment of such principal, Sinking Fund Installment and/or interest or the Redemption Price, if applicable, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the principal, Sinking Fund Installment and/or Interest Payment Date or the date fixed for redemption, as the case may be, except that interest shall continue to accrue on any unpaid principal.

ARTICLE IV

APPLICATION OF BOND PROCEEDS

Section 4.01. Application of Proceeds of Initial Bonds. Upon the receipt by the Trustee of the original proceeds of the sale and delivery of the Initial Bonds, including the amount received as accrued interest, if any, thereon, the Trustee shall deposit such proceeds in the 2021 Bond Proceeds Account of the Project Fund.

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ARTICLE V

CUSTODY AND INVESTMENT OF FUNDS

Section 5.01. Creation of Funds and Accounts. (a) The Issuer hereby establishes and creates the following special trust Funds and Accounts comprising such Funds:

- (1) Project Fund
 - (a) Bond Proceeds Account
 - (b) School Construction Account
- (2) Bond Fund
 - (a) Principal Account
 - (b) Interest Account
 - (c) Redemption Account
 - (d) Sinking Fund Installment Account
- (3) Renewal Fund
- (4) Earnings Fund
- (5) Rebate Fund
- (6) Debt Service Reserve Fund
- (7) Repair and Replacement Fund
- (8) Revenue Fund

(b) All of the Funds and Accounts created hereunder shall be held by the Trustee. All moneys required to be deposited with or paid to the Trustee for the credit of any Fund or Account under any provision of this Indenture and all investments made therewith shall be held by the Trustee in trust and applied only in accordance with the provisions of this Indenture, and while held by the Trustee shall constitute part of the Trust Estate (subject to the granting clauses of this Indenture), other than the Rebate Fund, and be subject to the lien hereof.

Section 5.02. Project Fund. (a) There shall be deposited in the Project Fund any and all amounts required to be deposited therein pursuant to Sections 4.01, 5.06 and 5.07 or otherwise required to be deposited therein pursuant to the Loan Agreement, or this Indenture or otherwise pledged or contributed by the School, which sums shall be deposited into the School Construction Account of the Project Fund.

The Trustee shall apply the amounts on deposit in the Project Fund to the payment, or reimbursement to the extent the same have been paid by or on behalf of the Institution or the Issuer, of Project Costs (including interest on the Bonds during the period of Project construction and renovation) to the extent requisitioned under subsection (b) hereto.

(b) The Trustee is hereby authorized to disburse from the Project Fund amounts required to pay (in whole or in part) the Project Costs and is directed to issue its checks (or, at the direction of the Institution, make wire transfers) for each disbursement from the Project Fund for the Project Costs, upon a requisition submitted to the Trustee, signed by an Authorized Representative of the Institution; provided, however, that the Trustee shall retain in the Project Fund an amount equal to the greater of (a) \$60,000 or (b) the lesser of (i) one percent (1%) of the original principal amount of the Initial Bonds or (ii) \$500,000, until an Authorized Representative of the Institution shall have delivered the completion certificate and other documents required by Section 3.2(f) of the Loan Agreement. Excluding the payment of amounts for the Cost of Issuance, which shall be paid out the School Construction Account of the Project Fund out of funds delivered to the Trustee by the School, the Trustee is hereby instructed to expend and exhaust Bond proceeds deposited into the Project Fund pursuant to Section 4.01 before expending amounts delivered to the Trustee by the School for deposit into the School Construction Account of the Project Fund. Notwithstanding the foregoing, the Trustee is also directed to transfer \$1,600,400.00 from the School Construction Account of the Project Fund to the Debt Service Reserve Fund.

The requisition from the Project Fund shall be accompanied by bills or invoices (stamped "paid" by the Person to whom payment was due or with other evidence of payment if reimbursement is to be made to the Institution), including evidence that the bill, invoice or other evidence was not incurred on a date prior to sixty (60) days prior to the date of adoption by the Issuer or the Institution of the Reimbursement Resolution for the Project. Such requisition shall be as set forth in Exhibit D — "Form of Requisition from the Project Fund" and shall be submitted to the Trustee. The Trustee shall disburse amounts from the Project Fund not later than five (5) Business Days following the receipt of the executed requisition and accompanying bills or invoices, except that any such requisition and accompanying bills or invoices submitted on the Closing Date shall have disbursements made by the Trustee on such Closing Date. The Trustee shall be entitled to conclusively rely on the correctness and accuracy of such requisition as well as the propriety of the signature thereon.

In addition to the foregoing, any requisition submitted to the Trustee for costs of construction, improving and/or renovating the Facility Realty shall be accompanied by a notice of title continuation or an endorsement to the title insurance policies theretofore delivered pursuant to Section 3.7 of the Loan Agreement, indicating that since the last preceding disbursement of any amounts held in the Project Fund, there has been no change in the state of title and no exceptions not theretofore approved by the Issuer and the Trustee (which approvals shall not be unreasonably withheld), which notice or endorsement shall contain no exception for inchoate mechanic's liens (and such affirmative insurance relating thereto as the Issuer and/or the Trustee shall reasonably require) and shall have the effect of redating such policies to the date of the disbursement then being made and increasing the coverage of the policies by an

amount equal to the disbursement then being made if the policies do not by their terms provide for such an increase.

(c) The Trustee shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom and shall furnish copies of same to the Issuer or the Institution upon reasonable written request.

(d) The Trustee shall on written request furnish to the Issuer and the Institution within a reasonable time period a written statement of disbursements from the Project Fund, enumerating, among other things, item, cost, amount disbursed, date of disbursement and the person to whom payment was made, together with copies of all bills, invoices or other evidences submitted to the Trustee for such disbursement.

(e) The completion of the Project shall be evidenced as set forth in Section 3.2(f) of the Loan Agreement including the filing of the certificate of an Authorized Representative of the Institution referred to therein. Upon the filing of such certificate, the balance in the Project Fund in excess of the amount, if any, stated in such certificate for the payment of any remaining part of the costs of the Project, shall, after making any transfer to the Rebate Fund as directed pursuant to [Section ___ of the Tax Regulatory Agreement] and Section 5.07, be deposited by the Trustee in the Redemption Account of the Bond Fund. Upon payment of all the costs and expenses incident to the completion of the Project, any balance of such remaining amount in the Project Fund, together with any amount on deposit in the Earnings Fund derived from transfers made thereto from the Project Fund, shall, after making any such transfer to the Rebate Fund, and after depositing in the Debt Service Reserve Fund an amount equal to any deficiency therein, be deposited in the Redemption Account of the Bond Fund to be applied to the redemption of Bonds at the earliest practicable date. The Trustee shall promptly notify the Institution of any amounts so deposited in the Redemption Account of the Bond Fund pursuant to this Section 5.02(e).

In addition, upon the filing of such Project completion certificate as described above, the balance in the accounts in the Project Fund in excess of the amount, if any, stated in such certificate for the payment of any remaining part of the Project Costs shall, after depositing in the Debt Service Reserve Fund an amount equal to any deficiency therein, be deposited by the Trustee in the Interest Account of the Bond Fund.

(f) In the event the Institution shall be required to or shall elect to cause the Bonds to be redeemed in whole pursuant to the Loan Agreement, the balance in the Project Fund and in the Earnings Fund (in excess of any amount the Trustee is directed to transfer to the Rebate Fund pursuant to Section 4.6 of the Tax Regulatory Agreement and Section 5.07) and in the Debt Service Reserve Fund shall be deposited in the Redemption Account of the Bond Fund. In the event the unpaid principal amount of the Bonds shall be accelerated upon the occurrence of an Event of Default hereunder, the balance in the Project Fund and in the Earnings Fund (in excess of any amount the Trustee is directed to transfer to the Rebate Fund pursuant to Section 4.6 of the Tax Regulatory Agreement and Section 5.07) and in the Debt Service Reserve Fund shall be deposited in the Bond Fund as provided in Section 8.03.

(g) Except as provided in Section 5.06, all earnings on amounts held in the Project Fund shall be transferred by the Trustee and deposited in the Earnings Fund. Any transfers by the Trustee of amounts to the Rebate Fund shall first be drawn by the Trustee from the Earnings Fund prior to drawing any amounts from the Project Fund.

Section 5.03. Custody Agreement. (a) Except as otherwise provided in the Custody Agreement, the Trustee shall deliver the Custody Agreement Notice to the Custodian no later than five (5) Business Days before each State Education Operating Aid Payment Date.

(b) Except as otherwise provided in the Custody Agreement, each Custody Agreement Notice shall be prepared by the Trustee in substantially the form of Exhibit A attached to the Custody Agreement, with respect to each period from and including June 1, 2021, and from and including each succeeding State Education Operating Aid Payment Date, through and including the calendar year preceding each subsequent State Education Operating Aid Payment Date (each an “**Education Aid Funding Period**”), certifying the respective aggregate amounts to be transferred by the Custodian to the Trustee during the applicable Education Aid Funding Period.

(c) Each Custody Agreement Notice shall describe the amount of Education Aid necessary to be paid to the Trustee to satisfy the payment obligations of the Institution under Section 6.3 of the Loan Agreement. Accordingly, each Custody Agreement Notice shall contain the following information: (1) a statement of the total amount of Education Aid to be paid over to the Trustee on the applicable State Education Operating Aid Payment Date, and (2) statements describing the portions of such total amount to be deposited into the various funds and accounts held by the Trustee under this Indenture pursuant to Section 5.05(e) hereof. The Trustee shall prepare each Custody Agreement Notice in consultation with the Institution.

(d) The Institution shall provide the Trustee, in a timely fashion (but at least ten (10) Business Days prior to each State Education Operating Aid Payment Date), the information reasonably needed by the Trustee in order to permit the Trustee to prepare each Custody Agreement Notice.

Section 5.04. Payments into Renewal Fund; Application of Renewal Fund.

(a) The Net Proceeds resulting from any Loss Event with respect to the Facility, together with any other amounts so required to be deposited therein under the Loan Agreement or the Mortgage, shall be deposited in the Renewal Fund (except as otherwise provided in Section 3.11 of the Mortgage).

(b) In the event the Bonds shall be subject to redemption in whole (either by reason of such Loss Event or otherwise) pursuant to the terms thereof or this Indenture, and the Institution shall have so directed the Trustee in writing within ninety (90) days of the occurrence of such Loss Event, the Trustee shall, after making any transfer to the Rebate Fund as directed pursuant to Section 4.6 of the Tax Regulatory Agreement and Section 5.07, transfer the amounts deposited in the Renewal Fund to the Redemption Account of the Bond Fund.

If, on the other hand,

(1) the Bonds shall not be subject to optional redemption in whole (whether by reason of such Loss Event or otherwise), or

(2) the Bonds shall be subject to optional redemption in whole (whether by reason of such Loss Event or otherwise) and the Institution shall have failed to take action to effect such redemption, or

(3) the Institution shall have notified the Trustee of its intent to rebuild, replace, repair and restore the Facility,

the Trustee shall apply the amounts on deposit in the Renewal Fund, after making any transfer to the Rebate Fund as directed pursuant to Section 4.6 of the Tax Regulatory Agreement and Section 5.07, to such rebuilding, replacement, repair and restoration.

(c) If an Event of Default shall exist at the time of the receipt by the Trustee of the Net Proceeds in the Renewal Fund, the Trustee shall promptly request the written direction of the Majority Holders and shall thereupon apply such Net Proceeds, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and Section 5.07, to the rebuilding, replacement, repair and restoration of the Facility, or for deposit in the Redemption Account of the Bond Fund, as directed by the Majority Holders (or if no such direction shall be received within ninety (90) days after request therefor by the Trustee shall have been made, for deposit in the Redemption Account of the Bond Fund).

(d) The Trustee is hereby authorized to apply the amounts in the Renewal Fund to the payment (or reimbursement to the extent the same have been paid by or on behalf of the Institution or the Issuer) of the costs required for the rebuilding, replacement, repair and restoration of the Facility upon written instructions from the Institution. The Trustee is further authorized and directed to issue its checks for each disbursement from the Renewal Fund upon a requisition submitted to the Trustee and signed by an Authorized Representative of the Institution. Each such requisition shall be accompanied by bills, invoices or other evidences or documentation (including, without limitation, a title continuation or other evidence that no mechanics or other liens have been filed) satisfactory to the Trustee. The Trustee shall be entitled to rely on such requisition. The Trustee shall keep and maintain adequate records pertaining to the Renewal Fund and all disbursements therefrom and shall furnish copies of same to the Issuer and the Institution upon reasonable written request therefor.

(e) The date of completion of the restoration of the Facility shall be evidenced to the Issuer and the Trustee by a certificate of an Authorized Representative of the Institution stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for or arrangement for payment, reasonably satisfactory to the Trustee, has been made, (iii) that the Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that all property constituting part of the Facility is subject to the

terms of the Loan Agreement, and that all property constituting part of the Mortgaged Property is subject to the mortgage lien and security interest of the Mortgage, subject to Permitted Encumbrances, (v) the Rebate Amount applicable with respect to the Net Proceeds and the earnings thereon (with a statement as to the determination of the Rebate Amount and a direction to the Trustee of any required transfer to the Rebate Fund), and (vi) that the restored Facility is ready for occupancy, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Institution against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and Section 6.4 of the Loan Agreement, and (z) that no Person other than the Issuer or the Trustee may benefit therefrom. Such certificate shall be accompanied by (i) a certificate of occupancy (either temporary or permanent, provided that if is a temporary certificate of occupancy, the Institution will proceed with due diligence to obtain a permanent certificate of occupancy), if required, and any and all permissions, licenses or consents required of governmental authorities for the occupancy, operation and use of the Facility for the purposes contemplated by the Loan Agreement; (ii) a certificate of an Authorized Representative of the Institution that all costs of rebuilding, repair, restoration and reconstruction of the Facility have been paid in full, together with releases of mechanics' liens by all contractors and materialmen who supplied work, labor, services, materials or supplies in connection with the rebuilding, repair, restoration and reconstruction of the Facility (or, to the extent that any such costs shall be the subject of a bona fide dispute, evidence to the Trustee that such costs have been appropriately bonded or that the Institution shall have posted a surety or security at least equal to the amount of such costs); and (iii) a search prepared by a title company, or other evidence satisfactory to the Trustee, indicating that there has not been filed with respect to the Facility any mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Facility and that there exist no encumbrances other than those encumbrances consented to by the Issuer and the Trustee.

(f) All earnings on amounts on deposit in the Renewal Fund shall be transferred by the Trustee and deposited in the Earnings Fund. Any transfers by the Trustee of amounts to the Rebate Fund shall first be drawn by the Trustee from the Earnings Fund prior to drawing any amounts from the Renewal Fund.

(g) Any surplus remaining in the Renewal Fund after the completion of the rebuilding, replacement, repair and restoration of the Facility shall, after making any transfer to the Rebate Fund as directed pursuant to the Tax Regulatory Agreement and Section 5.07, and after depositing in the Debt Service Reserve Fund an amount equal to any deficiency therein, be transferred by the Trustee to the Redemption Account of the Bond Fund.

Section 5.05. Payments into Bond Fund. The Trustee shall promptly deposit the following receipts into the Bond Fund:

(a) The interest accruing on any Series of Bonds from the date of original issuance thereof to the date of delivery, which shall be credited to the Interest Account of the Bond Fund and applied to the payment of interest on such Series of Bonds.

(b) Amounts disbursed from the Project Fund for the payment of interest on the Bonds during the period of Project Work, which shall be credited to the Interest Account of the Bond Fund and applied to the payment of interest on the Bonds;

(c) Excess or remaining amounts in the Project Fund required to be deposited (subject to any transfer required to be made to the Rebate Fund in accordance with directions received pursuant to the Tax Regulatory Agreement and Section 5.07, or to the Debt Service Reserve Fund to the extent of any deficiency therein) (i) in the Redemption Account of the Bond Fund pursuant to Section 5.02(e) or the first sentence of Section 5.02(f), which shall be kept segregated from any other moneys within such Account, or (ii) in the Bond Fund pursuant to the second sentence of Section 5.02(f).

(d) Loan payments received by the Trustee pursuant to Section 4.3(a)(i), (ii), (iii), (iv) or (v), or Section 4.3(i), of the Loan Agreement and Section 4.1 of the Custody Agreement, which shall be deposited in and credited, to the extent necessary, first to the Interest Account, second to the Principal Account, and third to the Sinking Fund Installment Account of the Bond Fund.

(e) Advance loan payments received by the Trustee pursuant to Section 4.3(c) of the Loan Agreement, which shall be deposited in and credited to the Redemption Account of the Bond Fund.

(f) Any amounts transferred from the Earnings Fund pursuant to Section 5.06(c), which shall be deposited in and credited to the Interest Account of the Bond Fund.

(g) The excess amounts referred to in Section 5.05(d), which shall be deposited in and credited to the Interest Account of the Bond Fund.

(h) Any amounts transferred from the Redemption Account pursuant to Section 5.05(h), which shall be deposited to the Interest Account, the Principal Account and the Sinking Fund Installment Account of the Bond Fund, as the case may be and in such order of priority, and applied solely to such purposes.

(i) Amounts in the Renewal Fund required by Section 5.03 or by the Mortgage to be deposited (subject to any transfer required to be made to the Rebate Fund in accordance with directions received pursuant to the Tax Regulatory Agreement and Section 5.07 or to the Debt Service Reserve Fund to the extent of any deficiency therein) to the Redemption Account of the Bond Fund pursuant to Section 5.03(g).

(j) All other receipts when and if required by the Loan Agreement or by this Indenture or by any other Security Document to be paid into the Bond Fund, which shall be credited (except as provided in Section 8.03) to the Redemption Account of the Bond Fund.

(k) Any amounts transferred from the Debt Service Reserve Fund pursuant to Section 5.13, which shall be deposited in and credited to the Interest Account, the Principal

Account, the Sinking Fund Installment Account or the Redemption Account, as the case may be, of the Bond Fund.

Section 5.06. Application of Bond Fund Moneys. (a) The Trustee shall (i) on each Interest Payment Date pay or cause to be paid out of the Interest Account in the Bond Fund the interest due on the Bonds, and (ii) further pay out of the Interest Account of the Bond Fund any amounts required for the payment of accrued interest upon any purchase or redemption (including any mandatory Sinking Fund Installment redemption) of Bonds.

(b) The Trustee shall on each principal payment date on the Bonds pay or cause to be paid to the respective Paying Agents therefor out of the Principal Account of the Bond Fund, the principal amount, if any, due on the Bonds (other than such as shall be due by mandatory Sinking Fund Installment redemption), upon the presentation and surrender of the requisite Bonds.

(c) There shall be paid from the Sinking Fund Installment Account of the Bond Fund to the Paying Agents on each Sinking Fund Installment payment date in immediately available funds the amounts required for the Sinking Fund Installment due and payable with respect to Bonds which are to be redeemed from Sinking Fund Installments on such date (accrued interest on such Bonds being payable from the Interest Account of the Bond Fund). Such amounts shall be applied by the Paying Agents to the payment of such Sinking Fund Installment when due. The Trustee shall call for redemption, in the manner provided in Article VI, Bonds for which Sinking Fund Installments are applicable in a principal amount equal to the Sinking Fund Installment then due with respect to such Bonds. Such call for redemption shall be made even though at the time of mailing of the notice of such redemption sufficient moneys therefor shall not have been deposited in the Bond Fund.

(d) Amounts in the Redemption Account of the Bond Fund shall be applied, at the written direction of the Institution, as promptly as practicable, to the purchase of Bonds at prices not exceeding the Redemption Price thereof applicable on the earliest date upon which the Bonds are next subject to optional redemption, plus accrued interest to the date of redemption. Any amount in the Redemption Account not so applied to the purchase of Bonds by forty-five (45) days prior to the next date on which the Bonds are so redeemable shall be applied to the redemption of Bonds on such redemption date. Any amounts deposited in the Redemption Account and not applied within twelve (12) months of their date of deposit to the purchase or redemption of Bonds (except if held in accordance with Article X) shall be transferred to the Interest Account. Upon the purchase of any Bonds out of advance loan payments as provided in this subsection, or upon the redemption of any Bonds, an amount equal to the principal of such Bonds so purchased or redeemed shall be credited against the next ensuing and future Sinking Fund Installments for such Bonds in chronological order of the due dates of such Sinking Fund Installments until the full principal amount of such Bonds so purchased or redeemed shall have been so credited. The portion of any such Sinking Fund Installment remaining after the deduction of such amounts so credited shall constitute and be deemed to be the amount of such Sinking Fund Installment for the purposes of any calculation thereof under this Indenture. The Bonds to be purchased or redeemed shall be selected by the Trustee in the manner provided in

Section 6.02. Amounts in the Redemption Account to be applied to the redemption of Bonds shall be paid to the respective Paying Agents on or before the redemption date and applied by them on such redemption date to the payment of the Redemption Price of the Bonds being redeemed plus interest on such Bonds accrued to the redemption date.

(e) In connection with purchases of Bonds out of the Bond Fund as provided in this Section, the Institution shall arrange and the Trustee shall execute such purchases (through brokers or otherwise, and with or without receiving tenders) at the written direction of the Institution. The payment of the purchase price shall be made out of the moneys deposited in the Redemption Account of the Bond Fund and the payment of accrued interest shall be made out of moneys deposited in the Interest Account of the Bond Fund.

(f) The Issuer shall receive a credit in respect of Sinking Fund Installments for any Bonds which are subject to mandatory Sinking Fund Installment redemption and which are delivered by the Issuer or the Institution to the Trustee on or before the forty-fifth (45th) day next preceding any Sinking Fund Installment payment date and for any Bonds which prior to said date have been purchased or redeemed (otherwise than through the operation of the Sinking Fund Installment Account) and cancelled by the Trustee and not theretofore applied as a credit against any Sinking Fund Installment (whether pursuant to Section 5.05(d) or otherwise). Each Bond so delivered, cancelled or previously purchased or redeemed shall be credited by the Trustee at one hundred per cent (100%) of the principal amount thereof against the obligation of the Issuer on such Sinking Fund Installment payment date with respect to Bonds of such Series and maturity and the principal amount of such Bonds to be redeemed by operation of the Sinking Fund Installment Account on the due date of such Sinking Fund Installment shall be reduced accordingly, and any excess over such principal amount shall be credited on future Sinking Fund Installments in direct chronological order, and the principal amount of Bonds to be redeemed by application of Sinking Fund Installment payments shall be accordingly reduced.

(g) The Institution shall on or before the forty-fifth (45th) day next preceding each Sinking Fund Installment payment date furnish the Trustee with the certificate of an Authorized Representative of the Institution indicating whether or not and to what extent the provisions of this Section are to be availed of with respect to such Sinking Fund Installment payment, stating, in the case of the credit provided for, that such credit has not theretofore been applied against any Sinking Fund Installment and confirming that immediately available cash funds for the balance of the next succeeding prescribed Sinking Fund Installment payment will be paid on or prior to the next succeeding Sinking Fund Installment payment date.

(h) Moneys in the Redemption Account of the Bond Fund which are not set aside or deposited for the redemption or purchase of Bonds shall be transferred by the Trustee to the Interest Account, to the Principal Account or to the Sinking Fund Installment Account of the Bond Fund.

Section 5.07. Payments into Earnings Fund; Application of Earnings Fund.

(a) All investment income or earnings on amounts held in the Project Fund, the Renewal Fund, the Debt Service Reserve Fund or any other special fund (other than the Rebate Fund or the Bond Fund) shall be deposited upon receipt by the Trustee into the Earnings Fund. The Trustee

shall keep separate accounts of all amounts deposited in the Earnings Fund and by journal entry indicate the Fund source of the income or earnings.

(b) On the first Business Day following each Computation Period (as defined in the Tax Regulatory Agreement), the Trustee shall withdraw from the Earnings Fund and deposit to the Rebate Fund an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of the last day of the Computation Period. In the event of any deficiency, the balance required shall be provided by the Institution pursuant to the Tax Regulatory Agreement. Computations of the amounts on deposit in each Fund and of the Rebate Amount shall be furnished to the Trustee by the Institution in accordance with the Tax Regulatory Agreement.

(c) The foregoing notwithstanding, the Trustee shall not be required to transfer amounts from the Earnings Fund to the Rebate Fund (and shall instead apply such amounts in the Earnings Fund as provided in the immediately following sentence), if the Institution shall deliver to the Trustee a certificate of an Authorized Representative of the Institution to the effect that (x) the applicable requirements of a spending exception to rebate has been satisfied as of the relevant semiannual period as set forth in the Tax Regulatory Agreement, (y) the proceeds of the Bonds have been invested in obligations the interest on which is not included in gross income for federal income tax purposes under Section 103 of the Code or (z) the proceeds of the Bonds have been invested in obligations the Yield on which (calculated as set forth in the Tax Regulatory Agreement) does not exceed the Yield on such Bonds (calculated as set forth in the Tax Regulatory Agreement). Any amounts on deposit in the Earnings Fund following the transfers to the Rebate Fund required by this Section shall be deposited in the Project Fund until the completion of the Project as provided in Section 3.2(f) of the Loan Agreement, and thereafter in the Interest Account of the Bond Fund.

Section 5.08. Payments into Rebate Fund; Application of Rebate Fund.

(a) The Rebate Fund and the amounts deposited therein shall not be subject to a security interest, pledge, assignment, lien or charge in favor of the Trustee, any Bondholder or any other Person.

(b) The Trustee, upon the receipt of a certification of the Rebate Amount (as defined in the Tax Regulatory Agreement) from an Authorized Representative of the Institution, shall deposit in the Rebate Fund within sixty (60) days following each Computation Date (as defined in the Tax Regulatory Agreement), an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated as of such Computation Date. If there has been delivered to the Trustee a certification of the Rebate Amount in conjunction with the completion of the Project pursuant to Section 3.2(f) of the Loan Agreement or the restoration of the Facility pursuant to Section 5.03, at any time during a Bond Year, the Trustee shall deposit in the Rebate Fund at that time an amount such that the amount held in the Rebate Fund after such deposit is equal to the Rebate Amount calculated at the completion of the Project or the restoration of the Facility as aforesaid. The amount deposited in the Rebate Fund pursuant to the previous sentences shall be withdrawn from the Earnings Fund. If the amount on deposit in the Rebate Fund following such deposit is less than the Rebate Amount, the Trustee shall promptly deliver a notice stating the amount of such deficiency to the Institution. It is provided

in the Loan Agreement that promptly upon receipt of such notice, the Institution shall deliver the amount necessary to make up such deficiency to the Trustee for deposit in the Rebate Fund.

(c) If within sixty (60) days following any Computation Date, the amount on deposit in the Rebate Fund exceeds the Rebate Amount, the Trustee, upon the receipt of written instructions from an Authorized Representative of the Institution, shall withdraw such excess amount and deposit it in the Project Fund until the completion of the Project as provided in Section 3.2(f) of the Loan Agreement, or, after the completion of the Project, deposit it in the Interest Account of the Bond Fund.

(d) The Trustee, upon the receipt of written instructions from an Authorized Representative of the Institution, shall pay to the United States, out of amounts in the Rebate Fund, (i) not less frequently than once each five (5) years after the Closing Date, an amount such that, together with prior amounts paid to the United States, the total paid to the United States is equal to 90% of the Rebate Amount with respect to the Initial Bonds as of the date of such payment and (ii) notwithstanding the provisions of Article X, not later than thirty (30) days after the date on which all Initial Bonds have been paid in full, 100% of the Rebate Amount as of the date of payment.

Section 5.09. Transfer to Rebate Fund. The Trustee shall have no obligation under this Indenture to transfer any amounts to the Rebate Fund unless the Trustee shall have received specific written instructions from an Authorized Representative of the Institution to make such transfer.

Section 5.10. Investment of Funds and Accounts. (a) Amounts in any Fund or Account established under this Indenture may, if and to the extent then permitted by law, be invested only in Qualified Investments provided that any Qualified Investment shall not have a maturity date greater than five (5) years from the date of the making of such investment unless such Qualified Investment may be put at par at any time at the option of the owner thereof, and provided, further, that any investment of amounts held in the Debt Service Reserve Fund shall be limited to Government Obligations. Any investment herein authorized is subject to the condition that no portion of the proceeds derived from the sale of the Bonds shall be used, directly or indirectly, in such manner as to cause any Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code. In particular, unexpended Bond proceeds transferred from the Project Fund (or from the Earnings Fund with respect to amounts deposited therein from the Project Fund) to the Redemption Account of the Bond Fund pursuant to Section 5.02(e) may not be invested at a Yield (as defined in the Tax Regulatory Agreement) which is greater than the Yield on the applicable Series of Bonds. Such investments shall be made by the Trustee only at the written request of an Authorized Representative of the Institution; and if such investment is to be in one or more certificates of deposit, investment agreements or guaranteed investment contracts, then such written request shall include written assurance to the effect that such investment complies with the Tax Regulatory Agreement. Any investment hereunder shall be made in accordance with the Tax Regulatory Agreement, and the Institution shall so certify to the Trustee with each such investment direction as referred to below. Such investments shall mature in such amounts and at such times as may be necessary to provide funds when needed to make payments

from the applicable Fund. Net income or gain received and collected from such investments shall be credited and losses charged to (i) the Rebate Fund with respect to the investment of amounts held in the Rebate Fund, (ii) the Bond Fund with respect to the investment of amounts held in the Bond Fund, and (iii) the Earnings Fund with respect to the investment of amounts held in any other Fund.

(b) At the written request of an Authorized Representative of the Institution no sooner than ten (10) days prior to each Loan Payment Date under the Loan Agreement, the Trustee shall notify the Institution of the amount of such net investment income or gain received and collected subsequent to the last such loan payment and the amount then available in the various Accounts of the Bond Fund.

(c) Upon the written direction of an Authorized Representative of the Institution, the Trustee shall sell at the best price reasonably obtainable, or present for redemption or exchange, any obligations in which moneys shall have been invested to the extent necessary to provide cash in the respective Funds or Accounts, to make any payments required to be made therefrom, or to facilitate the transfers of moneys or securities between various Funds and Accounts as may be required from time to time pursuant to the provisions of this Article. The Trustee shall not be liable for losses incurred as a result of actions taken in good faith in accordance with this Section 5.09(c). As soon as practicable after any such sale, redemption or exchange, the Trustee shall give notice thereof to the Issuer and the Institution.

(d) Neither the Trustee nor the Issuer shall be liable for any loss arising from, or any depreciation in the value of any obligations in which moneys of the Funds and Accounts shall be invested in accordance with this Indenture. The investments authorized by this Section 5.09 shall at all times be subject to the provisions of applicable law, as amended from time to time.

(e) In computing the amount in any Fund or Account, obligations purchased as an investment of moneys therein shall be valued at fair market value as determined by the Trustee one month prior to each Interest Payment Date.

The fair market value of Qualified Investments shall be determined as follows:

(i) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times*), the average bid and asked prices for such investments so published on or most recently prior to such time of determination;

(ii) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or *The New York Times*, the average bid price at such nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or as quoted in the Interactive Data Service; and

(iii) as to certificates of deposit and bankers acceptances and other investments, the face amount thereof, plus accrued interest.

If more than one provision of this definition of “fair market value” shall apply at any time to any particular investment, the fair market value thereof at such time shall be determined in accordance with the provision establishing the lowest value for such investment.

(f) In the case of the Debt Service Reserve Fund, a “surplus” means the amount by which the amount on deposit therein is in excess of the Debt Service Reserve Fund Requirement. On each Debt Service Reserve Fund Valuation Date, and upon any withdrawal from the Debt Service Reserve Fund, the Trustee shall determine the amount on deposit in the Debt Service Reserve Fund. If on any such date a deficiency exists, the Trustee shall notify the Issuer and the Institution of such deficiency and that such deficiency must be replenished by the Institution as required by Section 4.3(a)(vi) of the Loan Agreement. If a surplus exists, the Trustee shall notify the Issuer and the Institution thereof and, subject to the requirements of Section 4.6 of the Tax Regulatory Agreement, shall upon written instructions of the Institution transfer an amount equal to such surplus to the Project Fund until the completion of the Project as provided in Section 3.2(f) of the Loan Agreement and thereafter shall transfer such amount to the Interest Account of the Bond Fund.

(g) In the case of the Repair and Replacement Fund, a “surplus” means the amount by which the amount on deposit therein is in excess of the Repair and Replacement Fund Requirement. On each Repair and Replacement Fund Valuation Date, and upon any withdrawal from the Repair and Replacement Fund, the Trustee shall determine the amount on deposit in the Repair and Replacement Fund. If on any such date a deficiency exists, the Trustee shall notify the Issuer and the Institution of such deficiency and that such deficiency must be replenished by the Institution as required by Section 4.3(g) of the Loan Agreement. If a surplus exists, the Trustee shall notify the Issuer and the Institution thereof and shall upon written instructions of the Institution transfer an amount equal to such surplus to the Interest Account of the Bond Fund.

Section 5.11. Application of Moneys in Certain Funds for Retirement of Bonds. Notwithstanding any other provisions of this Indenture, if on any Interest Payment Date or redemption date the amounts held in the Funds established under this Indenture (other than the Earnings Fund and the Rebate Fund) are sufficient to pay one hundred percent (100%) of the principal or Redemption Price, as the case may be, of all Outstanding Bonds and the interest accruing on such Bonds to the next date on which such Bonds are redeemable or payable, as the case may be, whichever is earlier, the Trustee shall so notify the Issuer and the Institution. Upon receipt of written instructions from an Authorized Representative of the Institution directing such redemption, the Trustee shall proceed to redeem all such Outstanding Bonds in the manner provided for redemption of such Bonds by this Indenture.

Section 5.12. Repayment to the Institution from the Funds. After payment in full of the Bonds (in accordance with Article X) and the payment of all fees, charges and expenses of the Issuer, the Trustee, the Bond Registrar and the Paying Agents and all other amounts required to be paid hereunder and under each of the Security Documents, and the payment of any amounts which the Trustee is directed to rebate to the federal government

pursuant to this Indenture and the Tax Regulatory Agreement, all amounts remaining in any Fund shall be paid to the Institution upon the expiration or sooner termination of the term of the Loan Agreement as provided in Section 4.3(g) of the Loan Agreement.

Section 5.13. Non-presentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, and funds sufficient to pay any such Bond shall have been made available to the Trustee for the benefit of the Holder or Holders thereof, together with interest to the date on which principal is due, all liability of the Issuer to the Holder thereof for the payment of such Bond shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to pay such funds to the Person entitled thereto or if the Person is not known to the Trustee, to hold such funds, without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond. Such amounts so held shall, pending payment to the Holder of such Bond, (y) be subject to any rebate requirement as set forth in the Tax Regulatory Agreement or this Indenture, and (z) shall be uninvested, or, if invested, invested or re-invested only in Government Obligations maturing within thirty (30) days. Funds remaining with the Trustee as above and unclaimed for the earlier of two (2) years or one month less than the applicable statutory escheat period shall be paid to the Institution. After the payment of such unclaimed moneys to the Institution, the Holder of such Bond shall thereafter look only to the Institution for the payment thereof, and all obligations of the Trustee or such Paying Agent with respect to such moneys shall thereupon cease.

Section 5.14. Debt Service Reserve Fund. (a) If on any Interest Payment Date or redemption date on the Bonds, subsequent to the receipt of all payments pursuant to the Loan Agreement and the Custody Agreement, the amount in the Interest Account of the Bond Fund (after taking into account amounts available to be transferred to the Interest Account from the Project Fund) shall be less than the amount of interest then due and payable on the Bonds, or if on any principal payment date on the Bonds the amount in the Principal Account shall be less than the amount of principal of the Bonds then due and payable, or if on any Sinking Fund Installment payment date for the Bonds the amount in the Sinking Fund Installment Account of the Bond Fund shall be less than the amount of the Sinking Fund Installment then due and payable on the Bonds, in each case, after giving effect to all payments received by the Trustee in immediately available funds by 10:00 a.m. (New York City time) on such date from or on behalf of the Institution or the Issuer on account of such interest, principal or Sinking Fund Installment, the Trustee forthwith shall transfer moneys from the Debt Service Reserve Fund, first, to such Interest Account, second to such Principal Account, and third, to such Sinking Fund Installment Account, all to the extent necessary to make good any such deficiency.

(d) The Trustee shall give to the Institution on or prior to each Loan Payment Date on which the Institution is obligated pursuant to Section 4.3(a)(vi) of the Loan Agreement to pay to the Trustee amounts in respect of any deficiency in the Debt Service Reserve Fund, telephonic notice (to be promptly confirmed in writing) specifying any such deficiency in the Debt Service Reserve Fund. The failure of the Trustee to deliver such notice or any defect in

such notice shall not relieve the Issuer from any of its obligations hereunder or any other obligor from any of its obligations under any of the Security Documents.

(e) In the event that the Institution shall deliver written notice to the Trustee of its intention to redeem Bonds, the Institution may direct the Trustee to apply such amounts in the Debt Service Reserve Fund to effect such redemption such that the amount remaining in the Debt Service Reserve Fund upon such redemption shall not be less than the reduced Debt Service Reserve Fund Requirement as will be applicable to the remainder of the Bonds Outstanding.

Section 5.15. Repair and Replacement Fund.

(a) The Trustee shall deposit into the Repair and Replacement Fund all amounts required to be deposited therein pursuant to this Indenture and all payments required to be made by the Institution pursuant to Section 6.3 of the Loan Agreement.

(b) The Trustee shall, at the request of an Authorized Representative of the Institution, disburse moneys from the Repair and Replacement Fund in payment of the costs set forth in subsection (c) below upon receipt by the Trustee of requisitions in the form set forth in Exhibit E — “Form of Requisition from the Repair and Replacement Fund” signed by an Authorized Representative of the Institution. The Trustee shall be fully protected in releasing moneys from the Repair and Replacement Fund based on such requisition signed by an Authorized Representative of the Institution.

(c) After the Project Completion Date, moneys in the Repair and Replacement Fund shall be disbursed by the Trustee to the Institution or to the Institution’s order to pay the cost of (i) improvements to the Facility, (ii) replacement or repair of furniture and equipment or other components of the Facility, and (iii) purchasing additional furniture and equipment for the Facility; and (z) to pay principal and interest on the Bonds to the extent payments by the Institution are insufficient therefor (prior to the use of moneys in the applicable Debt Service Reserve Fund and after the use of moneys in the Earnings Fund for such purpose). In no event will the balance of the Repair and Replacement Fund be required to exceed the Repair and Replacement Fund Requirement. As long as no Event of Default has occurred and is continuing, if, at any time, the balance of the Repair and Replacement Fund exceeds the Repair and Replacement Fund Requirement, at the written request of the Institution, the sum of such excess shall be delivered by the Trustee to the Institution to be applied by the Institution for any lawful purpose of the Institution.

Section 5.16. Revenue Fund and Custody Agreement.

(a) There shall be deposited in the Revenue Fund as and when received, (i) the payments paid to the Trustee by the Institution pursuant to Section 6.3 of the Loan Agreement, (ii) transfers made by the Custodian pursuant to the Custody Agreement and (iii) all other moneys to be deposited into the Revenue Fund pursuant to the Loan Agreement or this Indenture.

All moneys held on deposit in the Revenue Fund shall be transferred or disbursed by the Trustee on each Loan Payment Date, in the following order of priority:

- FIRST: (i) to the applicable account of the Bond Fund, an amount of moneys, less any credits received against such amounts, equal to one-third (1/3) of the interest due on the applicable Series of Bonds on the next Interest Payment Date, plus (ii) to the applicable account of the Bond Fund, an amount of money equal to one-sixth (1/6) of the Sinking Fund Installment due on any Sinking Fund Installment payment date occurring in the next 12 months, plus (iii) to the applicable account of the Bond Fund, an amount of money equal to one-sixth (1/6) of the principal due on any principal payment date occurring in the next 12 months, plus (iv) any amount previously due under this paragraph but that remains unpaid because of an insufficiency in moneys available therefor;
- SECOND: to the Rebate Fund, any amount of moneys required to be deposited in the Rebate Fund pursuant to Section _____ of the Tax Regulatory Agreement;
- THIRD: to the Debt Service Reserve Fund, upon the determination of a deficiency pursuant to Section 5.10(f) hereof, an amount of moneys equal to one-sixth (1/6) of such deficiency in that amount of moneys necessary to cause the sum on deposit in the Debt Service Reserve Fund to equal the Debt Service Reserve Fund Requirement;
- FOURTH: following the Closing Date, an amount of moneys to the Repair and Replacement Fund on each Loan Payment Date until the amount on deposit in the Repair and Replacement Fund equals the Repair and Replacement Fund Requirement; provided that, following any disbursement or deficiency from the Repair and Replacement Fund, the amount required to be deposited therein shall additionally include an amount necessary to replenish the Repair and Replacement Fund by the total amount of such disbursement or deficiency deposited in equal amounts on each Loan Payment Date over the 24-month period to begin on the Loan Payment Date following such disbursement or deficiency;
- FIFTH: with respect to a redemption pursuant to Section 2.03 (other than Section 2.03(f)), to the applicable Bond Fund, an amount of money equal to the Redemption Price due on the Redemption Date, and

to the Institution, all amounts of money remaining on deposit in the Revenue Fund, if any, after the Trustee has made the disbursements required in FIRST through FIFTH above; provided that if an Event of Default has occurred and is in then in effect, the Trustee shall only transfer to the Charter School the amount necessary to pay operating and capital expenses required to be paid for that

calendar month as provided in the School's annual budget as shall be certified by the Institutions to the Trustee.

(b) The Trustee shall deliver a Custody Agreement Notice to the Custodian no later than five (5) Business Days before each State Education Operating Aid Payment Date.

(c) Each Custody Agreement Notice shall be prepared by the Trustee in substantially the form of Exhibit A attached to the Custody Agreement, with respect to each State Education Operating Aid Payment Date during the Education Aid Funding Period, certifying the respective aggregate amounts to be transferred by the Custodian to the Trustee during the applicable Education Aid Funding Period.

(d) Each Custody Agreement Notice shall describe the amount of Education Aid necessary to be paid to the Trustee to satisfy the payment obligations of the Institution under Section 6.3 of the Loan Agreement for the next Education Aid Funding Period. Accordingly, each Custody Agreement Notice shall contain the following information: (1) a statement of the total amount of Education Aid to be paid over to the Trustee on the applicable State Education Operating Aid Payment Date, and (2) statements describing the portions of such total amount to be deposited into the various Funds and Accounts held by the Trustee under this Indenture pursuant to Section 5.03(d) hereof. The Trustee shall prepare each Custody Agreement Notice in consultation with the Institutions.

(e) The Institution shall provide the Trustee, in a timely fashion (but at least ten (10) Business Days prior to each State Education Operating Aid Payment Date), the information reasonably needed by the Trustee in order to permit the Trustee to prepare each Custody Agreement Notice.

ARTICLE VI

REDEMPTION OF BONDS

Section 6.01. Privilege of Redemption and Redemption Price. Bonds or portions thereof subject to redemption prior to maturity shall be redeemable, upon mailed notice as provided in this Article, at the times, at the Redemption Prices and upon such terms in addition to and consistent with the terms contained in this Article as shall be specified in this Indenture and in said Bonds.

Section 6.02. Selection of Bonds to be Redeemed. In the event of redemption of less than all the Outstanding Bonds of the same Series and maturity, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair, except that (i) Bonds of a Series to be redeemed from Sinking Fund Installments shall be redeemed by lot, and (ii) to the extent practicable, the Trustee shall select Bonds of a Series for redemption such that no Bond of such Series shall be of a denomination of less than the Authorized Denomination for such Series of Bonds. In the event of redemption of less than all the Outstanding Bonds of the same Series stated to mature on different dates, the principal amount of such Series of Bonds to be redeemed shall be applied in inverse order of maturity of the Outstanding Series of Bonds to be redeemed and by lot within a maturity. The portion of Bonds of any Series to be redeemed in part shall be in the principal amount of the minimum Authorized Denomination thereof or some integral multiple thereof and, in selecting Bonds of a particular Series for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of such Series which is obtained by dividing the principal amount of such registered Bond by the minimum Authorized Denomination thereof (referred to below as a "unit") then issuable rounded down to the integral multiple of such minimum Authorized Denomination. If it is determined that one or more, but not all, of the units of principal amount represented by any such Bond is to be called for redemption, then, upon notice of intention to redeem such unit or units, the Holder of such Bond shall forthwith surrender such Bond to the Trustee for (a) payment to such Holder of the Redemption Price of the unit or units of principal amount called for redemption and (b) delivery to such Holder of a new Bond or Bonds of such Series in the aggregate unpaid principal amount of the unredeemed balance of the principal amount of such Bond. New Bonds of the same Series and maturity representing the unredeemed balance of the principal amount of such Bond shall be issued to the registered Holder thereof, without charge therefor. If the Holder of any such Bond of a denomination greater than a unit shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the unit or units of principal amount called for redemption (and to that extent only).

Section 6.03. Notice of Redemption. When redemption of any Bonds is requested or required pursuant to this Indenture, the Trustee shall give notice of such redemption in the name of the Issuer, specifying the name of the Series, CUSIP number, Bond numbers, the date of original issue of such Series, the date of mailing of the notice of redemption, maturities, interest rates and principal amounts of the Bonds or portions thereof to be redeemed, the

Redemption Date, the Redemption Price, and the place or places where amounts due upon such redemption will be payable (including the name, address and telephone number of a contact person at the Trustee) and specifying the principal amounts of the Bonds or portions thereof to be payable and, if less than all of the Bonds of any maturity are to be redeemed, the numbers of such Bonds or portions thereof to be so redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond or portion thereof to be redeemed the Redemption Price thereof together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice may set forth any additional information relating to such redemption. The Trustee, in the name and on behalf of the Issuer, (i) shall mail a copy of such notice by first class mail, postage prepaid, not more than 60 nor less than 30 days prior to the Redemption Date, to the registered owners of any Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registration books, but any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bonds with respect to which proper mailing was effected; and (ii) cause notice of such redemption to be sent to the national information service that disseminates redemption notices. Any notice mailed as described in this paragraph shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. In the event of a postal strike, the Trustee shall give notice by other appropriate means selected by the Trustee in its discretion. If any Bond shall not be presented for payment of the Redemption Price within 60 days of the Redemption Date, the Trustee shall mail a second notice of redemption to such Holder by first class mail, postage prepaid. Any amounts held by the Trustee due to non-presentment of Bonds for payments on or after any Redemption Date shall be retained by the Trustee for a period of at least one year after the final maturity date of such Bonds. Further, if any Holders of Bonds shall constitute registered depositories, the notice of redemption described in the first sentence of this paragraph shall be mailed to such Holders at least two (2) days prior to the mailing of such notice to all Holders.

If notice of redemption shall have been given as aforesaid, the Bonds of such Series called for redemption shall become due and payable on the Redemption Date, provided, however, that with respect to any optional redemption of the Bonds of a Series, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds of such Series to be redeemed, and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem the Bonds of such Series. In the event that such notice of optional redemption contains such a condition, and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. If a notice of optional redemption shall be unconditional, or if the conditions of a conditional notice of optional redemption shall have been satisfied, then upon presentation and surrender of the Bonds of such Series so called for redemption at the place or places of payment, such Series of Bonds shall be redeemed.

Under no circumstances shall the Trustee be required to expend any of its own funds for any purpose for which funds are to be disbursed under this Indenture.

So long as the Securities Depository is affecting book entry transfers of the Bonds, the Trustee shall provide the notices specified above only to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Trustee, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Section 6.04. Payment of Redeemed Bonds.

(a) Notice having been given in the manner provided in this Indenture, the Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Dates so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date. If, on the Redemption Date, moneys for the redemption of all the Bonds or portions thereof to be redeemed, together with interest to the Redemption Date, shall be held by the Paying Agents so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date, (i) interest on the Bonds or portions thereof so called for redemption shall cease to accrue and become payable, (ii) the Bonds or portions thereof so called for redemption shall cease to be entitled to any lien, benefit or security under this Indenture, and (iii) the Holders of the Bonds or portions thereof so called for redemption shall have no rights in respect thereof, except to receive payment of the Redemption Price together with interest accrued to the Redemption Date. If said moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

(b) Payment of the Redemption Price plus interest accrued to the Redemption Date shall be made to or upon the order of the registered owner only upon presentation of such Bonds for cancellation and exchange as provided in this Indenture; provided, however, that any Holder of at least \$1,000,000 in original aggregate principal amount of the Bonds may, by written request to the Trustee no later than five (5) days prior to the Redemption Date, direct that payments of Redemption Price and accrued interest to the Redemption Date be made by wire transfer as soon as practicable after tender of the Bonds in federal funds at such wire transfer address as the owner shall specify to the Trustee in such written request.

Section 6.05. Selection of the Bonds to Be Redeemed. In the event of redemption of less than all the Outstanding Bonds of the same Series and maturity, the particular Bonds or portions thereof to be redeemed shall be selected by the Trustee in such manner as the Trustee in its discretion may deem fair, except that (i) the Bonds to be redeemed from Sinking Fund Installments shall be redeemed by lot, and (ii) to the extent practicable, the Trustee shall select the Bonds for redemption such that no Bond shall be of a denomination of less than the Authorized Denomination for such Bonds. In the event of redemption of less than all the Outstanding Bonds of the same Series stated to mature on different dates, the principal amount of such Series of Bonds to be redeemed shall be applied in inverse order of maturity of the

Outstanding Bonds to be redeemed and by lot within a maturity. The portion of the Bonds to be redeemed in part shall be in the principal amount of the minimum Authorized Denomination thereof or some integral multiple thereof and, in selecting Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of such Series which is obtained by dividing the principal amount of such registered Bond by the minimum Authorized Denomination thereof (referred to below as a "unit") then issuable rounded down to the integral multiple of such minimum Authorized Denomination. If it is determined that one or more, but not all, of the units of principal amount represented by any such Bond is to be called for redemption, then, upon notice of intention to redeem such unit or units, the Holder of such Bond shall forthwith surrender such Bond to the Trustee for (a) payment to such Holder of the Redemption Price of the unit or units of principal amount called for redemption and (b) delivery to such Holder of a new Bond or Bonds in the aggregate unpaid principal amount of the unredeemed balance of the principal amount of such Bond. New Bonds of a maturity representing the unredeemed balance of the principal amount of such Bond shall be issued to the registered Holder thereof, without charge therefor. If the Holder of any such Bond of a denomination greater than a unit shall fail to present such Bond to the Trustee for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the date fixed for redemption to the extent of the unit or units of principal amount called for redemption (and to that extent only).

Section 6.06. Cancellation of Redeemed Bonds. (a) All Bonds redeemed in full under the provisions of this Article, shall forthwith be cancelled and returned to the Issuer and no Bonds shall be executed, authenticated or issued hereunder in exchange or substitution therefor, or for or in respect of any paid portion of a Bond.

(b) If there shall be drawn for redemption less than all of a Bond, as described in Section 6.02, the Issuer shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, a Bond or Bonds of like Series and maturity in any of the authorized denominations.

Section 6.07. No Partial Redemption After Default. Anything in this Indenture to the contrary notwithstanding, if there shall have occurred and be continuing an Event of Default hereunder, there shall be no redemption of less than all of the Bonds Outstanding.

ARTICLE VII

PARTICULAR COVENANTS

Section 7.01. Payment of Principal and Interest. The Issuer covenants that it will from the sources herein contemplated promptly pay or cause to be paid the principal, Purchase Price or Redemption Price of, and Sinking Fund Installments for, the Bonds, together with interest accrued thereon, at the place, on the dates and in the manner provided in this Indenture and in the Bonds according to the true intent and meaning thereof.

Section 7.02. Performance of Covenants; Authority. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all proceedings pertaining thereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly its Organizational Documents, to issue the Bonds authorized hereby and to execute this Indenture, to make the Loan to the Institution pursuant to the Loan Agreement and the Promissory Note, to assign the Loan Agreement and the Promissory Note, to execute and deliver the Assignment of Mortgage, and to pledge the loan payments, revenues and receipts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the Bonds in the hands of the Holders thereof are and will be the valid and enforceable special limited revenue obligations of the Issuer according to the import thereof.

Section 7.03. Books and Records; Certificate as to Defaults. The Issuer and the Trustee each covenant and agree that, so long as any of the Bonds shall remain Outstanding, proper books of record and account will be kept showing complete and correct entries of all transactions relating to the Project and the Facility, and that the Bondholders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto. In this regard, so long as the Loan Agreement is in full force and effect, records furnished by the Issuer and the Institution to, or kept by, the Trustee in connection with its duties as such shall be deemed to be in compliance with the Issuer's obligations under this Section 7.03. Within thirty (30) days after receiving the certificate from the Institution as provided in Section 8.26(b) of the Loan Agreement, the Trustee shall render to the Issuer a statement that moneys received by the Trustee pursuant to the Loan Agreement and the Promissory Note were applied by it to the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest on the Bonds, at the place, on the dates and in the manner provided in this Indenture and that the Trustee has no knowledge of any defaults under this Indenture, the Promissory Note or the Loan Agreement or any other Security Document or specifying the particulars of such defaults which may exist.

Upon reasonable written request, the Trustee shall make available to the Institution for its inspection during normal business hours, its records with respect to the Project and the Facility.

The Trustee agrees that, upon the written request of the Institution or the Issuer, it will, not more than twice in each calendar year, provide a statement to the requesting party setting forth the principal amount of Bonds Outstanding as of the date of such statement.

Section 7.04. Loan Agreement. An executed copy of the Loan Agreement will be on file in the office of the Issuer and in the designated corporate trust office of the Trustee. Reference is hereby made to the Loan Agreement for a detailed statement of the terms and conditions thereof and for a statement of the rights and obligations of the parties thereunder. All covenants and obligations of the Institution under the Loan Agreement shall be enforceable either by the Issuer or by the Trustee, to whom, in its own name or in the name of the Issuer, is hereby granted the right, to the extent provided therefor in this Section 7.04 and subject to the provisions of Section 9.02, to enforce all rights of the Issuer and all obligations of the Institution under the Loan Agreement, whether or not the Issuer is enforcing such rights and obligations. The Trustee shall take such action in respect of any matter as is provided to be taken by it in the Loan Agreement (including, without limitation, Sections 3.5, 6.3 and 8.10 thereof) upon compliance or noncompliance by the Institution and the Issuer with the provisions of the Loan Agreement relating to the same.

Section 7.05. Creation of Liens; Indebtedness. It is the intention of the Issuer and the Trustee that the Mortgage is and will continue to be a mortgage lien upon the Mortgaged Property. The Issuer shall not create or suffer to be created, or incur or issue any evidences of indebtedness secured by, any lien or charge upon or pledge of the Trust Estate, except the lien, charge and pledge created or permitted by this Indenture and the other Security Documents and the School Lease.

Section 7.06. Ownership; Instruments of Further Assurance. The Trustee on behalf of the Institution, subject to Section 7.04 and only upon the written direction of any Bondholder, shall defend the interest of the Institution in the Facility and the Pledged Collateral and every part thereof for the benefit of the Holders of the Bonds, to the extent permitted by law, against the claims and demands of all Persons whomsoever. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular the property described herein and in the remainder of the Trust Estate, subject to the liens, pledge and security interests of this Indenture and of the other Security Documents and the loan payments, revenues and receipts pledged hereby to the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest on the Bonds. Any and all property hereafter acquired which is of the kind or nature herein provided to be and become subject to the lien, pledge and security interest hereof (other than the Institution's Property as defined in the Loan Agreement) and of the other Security Documents shall ipso facto, and without any further conveyance, assignment or act on the part of the Issuer or the Trustee, become and be subject to the lien, pledge and security interest of this Indenture and the Mortgage as fully and completely as though specifically described herein and therein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Issuer heretofore made by this Section 7.06.

Section 7.07. Security Agreement; Filing. (a) This Indenture constitutes a "security agreement" within the meaning of Article 9 (Secured Transactions) of the New York State Uniform Commercial Code. The security interest of the Trustee, as created by this Indenture, in the rights and other intangible interests described herein, shall be perfected by the filing of a financing statement by the Institution, at the direction of the Issuer, in the office of the Secretary of State of the State in the City of Albany, New York, which financing statement shall be in accordance with the New York State Uniform Commercial Code-Secured Transactions. Subsequent to the foregoing filings, this Indenture shall be re-indexed, and financing and continuation statements shall be filed and re-filed, by the Trustee whenever in the Opinion of Counsel to the Institution (which opinion shall be reasonably acceptable to and addressed to the Trustee) such action is necessary to preserve the lien and security interest hereof. Any such filings or re-filings shall be prepared and filed by the Institution and delivered to the Trustee (if electronic filing is not elected by the Issuer) on a timely basis accompanied by any fees or requisite charges and the Opinion of Counsel referred to above. The Trustee will thereupon effect any such filings and re-filings of financing and continuation statements in said office of the Secretary of State, and promptly notify the Institution of any such filings.

(b) The Issuer and the Trustee acknowledge that, as of the Closing Date,

(i) Section 9-515 of the New York State Uniform Commercial Code provides that an initial financing statement filed in connection with a "public-finance transaction" is effective for a period of thirty (30) years after the date of filing if such initial financing statement indicates that it is filed in connection with a public-finance transaction,

(ii) Section 9-102(67) of the New York State Uniform Commercial Code defines a "public-finance transaction" as a secured transaction in connection with which (x) debt securities are issued, (y) all or a portion of the debt securities issued have an initial stated maturity of at least twenty (20) years, and (z) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a security interest is a state or a governmental unit of a state, and

(iii) subject to any future change in law, the initial financing statement as shall be filed with respect to the security interest described above shall therefore have an effective period of thirty (30) years after the date of filing, for the purpose of determining the date by which continuation statements shall be filed.

(c) The parties hereto acknowledge and agree that, because the foregoing financing statements evidence collateral for the Initial Bonds, and because the Initial Bonds are municipal debt securities with a term that is at least twenty (20) years in duration, there is no need under the Uniform Commercial Code of the State of New York to re-file such financing statements in order to preserve the liens and security interests that they create for the period commencing with the Closing Date and terminating on the thirtieth anniversary of the Closing Date.

Subsequent to the initial filings, if it is necessary to re-file financing statements and/or file continuation statements and/or take any other actions to preserve the lien and security interest of this Indenture (individually or collectively, the “**Continuation Action(s)**”), then the Institution in a timely manner shall: (A) as applicable, (i) prepare and deliver to the Trustee all necessary instruments and filing papers, together with remittances equal to the cost of required filing fees and other charges, so that the Trustee may perform the Continuation Actions, or (ii) electronically perform the Continuation Actions and deliver to the Trustee written certification (upon which the Trustee may conclusively rely) that such performance has occurred, specifying the Continuation Actions performed, or (iii) perform some of the Continuation Actions in the manner described in clause “(i)” and the others in the manner described in clause “(ii)”; and (B) if requested by the Trustee (acting at the direction of the Majority Holders) or the Issuer, deliver or cause to be delivered to the Issuer and the Trustee the Opinion of Counsel to the Institution as described below. The Trustee may conclusively rely upon (y) when applicable, the certification referred to in clause “(A)(ii),” and (z) in all instances, the Opinion of Counsel to the Institution. In the event the Institution chooses to have the Trustee perform all or some of the Continuation Actions, as provided in clause “(A)(i)”, the Trustee shall reasonably promptly perform such Continuation Actions at the Institution’s sole expense. The Institution shall perform the obligations described hereinabove in clauses “(A)” (in every case) and “(B)” (if so requested) no later than ten (10) days prior to (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) each fifth (5th) anniversary thereafter, and/or (ii) the date (not covered by clause “(i)”) on which a Continuation Action is to be taken to preserve the lien and security interest of this Indenture.

If an Opinion of Counsel to the Institution is requested pursuant to clause “(B)”, then the Opinion of Counsel to the Institution shall be addressed to the Institution, the Issuer and the Trustee. If so requested, the Institution shall deliver successive Opinions of Counsel in respect of (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) every five-year anniversary thereafter through the term of the Initial Bonds, and/or (ii) the date of any required Continuation Action not covered by clause “(i),” in each case not later than fifteen (15) days prior to the date on which a Continuation Action is required to be taken. In the Opinion of Counsel to the Institution, counsel shall opine as to: (i) what Continuation Actions are necessary; and (ii) the deadline dates for the required Continuation Actions; and (iii) the jurisdictions in which the Continuation Actions must be effected. Counsel in such opinion shall additionally opine that, upon performance of the Continuation Actions by, as the case may be, (i) the Trustee with instruments and papers prepared by the Institution, or (ii) the Institution through electronic filing, or (iii) the Trustee as to some Continuation Actions, and the Institution as to the others through electronic filings, all appropriate steps shall have been taken on the part of the Institution, the Issuer and the Trustee then requisite to the maintenance of the perfection of the security interest of the Trustee in and to all property and interests which by the terms of this Indenture are to be subjected to the lien and security interest of this Indenture.

(d) Any filings with respect to Uniform Commercial Code financing statements may be made electronically, and the Issuer shall have the right to designate a company (which shall be reasonably acceptable to the Trustee) to facilitate the filing of Uniform Commercial Code financing statements.

(e) The Trustee acknowledges and agrees (on behalf of itself and the Bondholders) that neither the Issuer, nor any of its directors, members, officers, employees, servants, agents, persons under its control or supervision, or attorneys (including Nationally Recognized Bond Counsel to the Issuer), shall have any responsibility or liability whatsoever related in any way to the filing or re-filing of any Uniform Commercial Code financing statements or continuation statements, or the perfection or continuation of perfection of any security interests, or the recording or rerecording of any document, or the failure to effect any act referred to in this Section, or the failure to effect any such act in all appropriate filing or recording offices, or the failure of sufficiency of any such act so effected.

(f) All costs (including reasonable attorneys’ fees and expenses) incurred in connection with the effecting of the requirements specified in this Section shall be paid by the Institution.

Section 7.08. Issuer Tax Covenant. The Issuer covenants that it shall not take any action within its control, nor refrain from taking any action reasonably requested by the Institution or the Trustee, that would cause the interest on the Bonds to become includable in gross income for federal income tax purposes; provided, however, the breach of this covenant shall not result in any pecuniary liability of the Issuer and the only remedy to which the Issuer shall be subject shall be specific performance.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES OF BONDHOLDERS

Section 8.01. Events of Default; Acceleration of Due Date. (a) Each of the following events is hereby defined as and shall constitute an “Event of Default”:

(1) Failure in the payment of the interest on any Bond when the same shall become due and payable;

(2) Failure in the payment of the principal or redemption premium, if any, of, or Sinking Fund Installment for, any Bonds, when the same shall become due and payable, whether at the stated maturity thereof or upon proceedings for redemption thereof or otherwise, or interest accrued thereon to the date of redemption after notice of redemption therefor or otherwise;

(3) Failure of the Issuer to observe or perform any covenant, condition or agreement in the Bonds or hereunder on its part to be performed (except as set forth in Section 8.01(a)(1) or (2)) and (A) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Issuer and the Institution specifying the nature of same from the Trustee or the Holders of more than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, or (B) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Issuer or the Institution fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice; or

(4) The occurrence of an “Event of Default” under the Loan Agreement or any other Security Document beyond any applicable cure period.

(b) Upon the happening and continuance of any Event of Default, unless the principal of all the Bonds shall have already become due and payable, either the Trustee (by notice in writing to the Issuer and the Institution) or the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding (by notice in writing to the Issuer, the Institution and the Trustee) may declare the principal or Redemption Price, if any, of all the Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon such declaration the same shall become and be immediately due and payable, anything in this Indenture or in any of the Bonds contained to the contrary notwithstanding.

(c) If there shall occur an Event of Default under Section 9.1(d) or (e) of the Loan Agreement, the unpaid principal of all the Bonds (and all principal installments of loan payments under the Loan Agreement) and the interest accrued thereon shall be due and payable immediately without the necessity of any declaration or other action by the Trustee or any other Person.

(d) The right of the Trustee or of the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding to make any such declaration as aforesaid, however, is subject to the condition that if, at any time before such declaration, all overdue installments of principal of and interest on all of the Bonds which shall have matured by their terms and the unpaid Redemption Price of the Bonds or principal portions thereof to be redeemed has been paid by or for the account of the Issuer, and all other Events of Default have been otherwise remedied, and the reasonable and proper charges, expenses and liabilities of the Trustee, shall either be paid by or for the account of the Issuer or provision satisfactory to the Trustee shall be made for such payment and the Facility shall not have been sold or otherwise encumbered, and all defaults have been otherwise remedied as provided in this Article VIII, then and in every such case any such default and its consequences shall ipso facto be deemed to be annulled, but no such annulment shall extend to or affect any subsequent default or impair or exhaust any right or power consequent thereon.

(e) Pursuant to the Loan Agreement, the Issuer has granted to the Institution full authority for the account of the Issuer to perform any covenant or obligation the non-performance of which is alleged in any notice received by the Institution to constitute a default hereunder, in the name and stead of the Issuer with full power to do any and all things and acts to the same extent that the Issuer could do and perform any such things and acts with power of substitution. The Trustee agrees to accept such performance by the Institution as performance by the Issuer.

Section 8.02. Enforcement of Remedies. (a) Upon the occurrence and continuance of any Event of Default, then and in every case the Trustee may proceed, and upon the written request of the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Bondholders under the Bonds, the Loan Agreement, this Indenture and under any other Security Document forthwith by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board or officer having jurisdiction, whether for the specific performance of any covenant or agreement contained in this Indenture or in any other Security Document or in aid of the execution of any power granted in this Indenture or in any other Security Document or for the enforcement of any legal or equitable rights or remedies as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights or to perform any of its duties under this Indenture or under any other Security Document. In addition to any rights or remedies available to the Trustee hereunder or elsewhere, upon the occurrence and continuance of an Event of Default the Trustee may take such action, without notice or demand, as it deems advisable.

(b) In the enforcement of any right or remedy under this Indenture or under any other Security Document, the Trustee shall be entitled to sue for, enforce payment on and receive any or all amounts then or during any default becoming, and any time remaining, due from the Issuer, for principal, interest, Sinking Fund Installments, Redemption Price, or otherwise, under any of the provisions of this Indenture, of any other Security Document or of the Bonds, and unpaid, with interest on overdue payments at the rate or rates of interest specified in the Bonds, together with any and all costs and expenses of collection and of all proceedings

under this Indenture, under any such other Security Document and under the Bonds, without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce judgment or decree against the Issuer, but solely as provided in this Indenture and in the Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from the moneys in the Bond Fund and other moneys available therefor to the extent provided in this Indenture) in any manner provided by law, the moneys adjudged or decreed to be payable. The Trustee shall file proof of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Bondholders allowed in any judicial proceedings relative to the Institution or the Issuer or their creditors or property.

(c) Regardless of the occurrence of an Event of Default, the Trustee, if requested in writing by the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding, and furnished with reasonable security and indemnity, shall institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Indenture or under any other Security Document by any acts which may be unlawful or in violation of this Indenture or of such other Security Document or of any resolution authorizing any Bonds, and such suits and proceedings as the Trustee may be advised shall be necessary or expedient to preserve or protect its interests and the interests of the Bondholders; provided, that such request shall not be otherwise than in accordance with the provisions of law and of this Indenture and shall not be unduly prejudicial to the interests of the Holders of the Bonds not making such request.

Section 8.03. Application of Revenues and Other Moneys After Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article or under any other Security Document shall, after payment of the cost and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Trustee, be deposited in the Bond Fund and all moneys so deposited and available for payment of the Bonds shall be applied, subject to Section 9.04, as follows:

(i) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

First - To the payment to the Persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege; and

Second - To the payment to the Persons entitled thereto of the unpaid principal or Redemption Price, if any, of any of the Bonds or principal installments which shall have become due (other than Bonds or principal installments called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with

interest on such Bonds, at the rate or rates expressed thereon, from the respective dates upon which they become due and, if the amount available shall not be sufficient to pay in full Bonds or principal installments due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(ii) If the principal of all the Bonds shall have become or have been declared due and payable, to the payment to the Bondholders of the principal and interest (at the rate or rates expressed in the Bonds) then due and unpaid upon the Bonds and if applicable to the Redemption Price of the Bonds without preference or priority of principal over interest or of interest over principal, Sinking Fund Installments, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Persons entitled thereto without any discrimination or preference.

(iii) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article VIII, then, subject to the provisions of Section 8.03(a)(B) which shall be applicable in the event that the principal of all the Bonds shall later become due and payable, the moneys shall be applied in accordance with the provisions of Section 8.03(a)(i).

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue; provided, however, that if the principal or Redemption Price of the Bonds Outstanding, together with accrued interest thereon, shall have been declared to be due and payable pursuant to Section 8.01, such date of declaration shall be the date from which interest shall cease to accrue. The Trustee shall give such written notice to all Bondholders as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 8.04. Actions by Trustee. All rights of actions under this Indenture, under any other Security Document or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds, and any recovery of judgment shall, subject to the provisions of Section 8.03, be for the equal benefit of the Holders of the Outstanding Bonds.

Section 8.05. Majority Holders Control Proceedings. Anything in this Indenture to the contrary notwithstanding, the Majority Holders shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 8.06. Individual Bondholder Action Restricted. (a) No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity (i) with respect to the Bonds, this Indenture or any other Security Document, (ii) for the enforcement of any provisions of the Bonds, this Indenture or of any other Security Document, (iii) for the execution of any trust under this Indenture or (iv) for any remedy under the Bonds, this Indenture or under any other Security Document, unless such Holder shall have previously given to the Trustee written notice of the occurrence of an Event of Default as provided in this Article, and the Holders of over twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity either to exercise the powers granted in the Bonds, this Indenture or in such other Security Document or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his, its or their action to affect, disturb or prejudice the pledge created by this Indenture, or to enforce any right under this Indenture except in the manner herein provided; and that all proceedings at law or in equity to enforce any provision of the Bonds or this Indenture shall be instituted, had and maintained in the manner provided in this Indenture and, subject to the provisions of Section 8.03, be for the equal benefit of all Holders of the Outstanding Bonds.

(b) Nothing in this Indenture, in any other Security Document or in the Bonds contained shall affect or impair the right of any Bondholder to payment of the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on any Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, and interest on each of the Bonds to the respective Holders thereof at the time, place, from the source and in the manner herein and in said Bonds expressed.

Section 8.07. Effect of Discontinuance of Proceedings. In case any proceedings taken by the Trustee on account of any Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case, the Institution, the Issuer, the Trustee and the Bondholders shall be restored, respectively, to their former positions and rights hereunder, and all rights, remedies, powers and duties of the Trustee shall continue as in effect prior to the commencement of such proceedings.

Section 8.08. Remedies Not Exclusive. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to any other remedy given under this Indenture or now or hereafter existing at law or in equity or by statute.

Section 8.09. Delay or Omission. No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power arising upon any default shall impair any right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Article to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

Section 8.10. Notice of Default. The Trustee shall promptly mail to the Issuer, to registered Holders of Bonds and to the Institution by first class mail, postage prepaid, written notice of the occurrence of any Event of Default. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail any notice required by this Section.

Section 8.11. Waivers of Default. The Trustee shall waive any default hereunder and its consequences and rescind any declaration of acceleration only upon the written request of the Majority Holders; provided, however, that there shall not be waived without the consent of the Holders of all the Bonds Outstanding (a) any default in the payment of the principal of any Outstanding Bonds at the date specified therein or (b) any default in the payment when due of the interest on any such Bonds, unless, prior to such waiver, all arrears of interest, with interest (to the extent permitted by law) at the rate borne by the Bonds on overdue installments of interest in respect of which such default shall have occurred, and all arrears of payment of principal when due, as the case may be, and all expenses of the Trustee in connection with such default shall have been paid or provided for, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely to the Trustee, then and in every such case the Institution, the Issuer, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 8.12. Issuer Approval of Certain Non-foreclosure Remedies. Notwithstanding any provision hereof or under any other Security Document, no remedy or other action (whether exercised by the Trustee, the Majority Holders or the Holders of the Bonds), shall have the effect of (x) continuing the exemption from the mortgage recording tax of the Mortgage upon substitution of other indebtedness to be secured by the Mortgage (a "Mortgage Restructuring"), (y) amending or terminating any Mortgage (a "Mortgage Action") or (z) substituting for the Institution, a new Entity to either be a counterparty to the Issuer under the Loan Agreement or as a user or lessee of all or a portion of the Facility (a "Substitution Action"), unless, (i) in the case of (x) or (z) described herein, a reasonable description of such Mortgage Restructuring and/or Substitution Action shall have been set forth in a writing delivered to the

Issuer by the Institution, together with a request for approval and the Mortgage Restructuring and/or Substitution Action shall be approved in writing by the Issuer, such approval not to be unreasonably withheld or delayed (and which approval may, in the sole discretion of the Issuer, be subject to action by the Issuer's Board of Directors); (ii) in the case of (y) described herein, the Issuer is provided with 30 days' advance written notice by the Institution prior to the effective date of such Mortgage Action, and (iii) in each case, there shall be delivered by the Institution to the Issuer, the Initial Bonds Purchaser, and the Trustee, an opinion of Nationally Recognized Bond Counsel, if required, to the effect that such Mortgage Restructuring, Mortgage Action and/or Substitution Action shall not cause the interest on any Outstanding Bonds to become subject to federal income taxation by reason of either such Mortgage Restructuring, Mortgage Action and/or Substitution Action. For the avoidance of doubt, no Issuer consent is required hereby for (i) the entry into a forbearance agreement by the Trustee, (ii) the exercise by the Trustee of any remedies under, or enforcement of, the Mortgage, including the commencement of a foreclosure action, (iii) the granting of a waiver of a default or Event of Default, to the extent permitted under the Loan Agreement or the Mortgage, by the Trustee, or (iv) the appointment of a receiver for the Institution or for any collateral securing the Bonds.

ARTICLE IX

TRUSTEE, BOND REGISTRAR AND PAYING AGENTS

Section 9.01. Appointment and Acceptance of Duties of Trustee. The entity identified as the Trustee on the cover page hereof is hereby appointed as Trustee. The Trustee shall signify its acceptance of the duties and obligations of the Trustee hereunder and under each Security Document by executing this Indenture and agrees to perform said trusts as a corporate trustee ordinarily would under a corporate mortgage subject to the express terms and conditions herein. All provisions of this Article IX shall be construed as extending to and including all the rights, duties and obligations imposed upon the Trustee under the Loan Agreement and under any other Security Document to which it shall be a party as fully for all intents and purposes as if this Article IX were contained in the Loan Agreement and each such other Security Document.

Section 9.02. Indemnity of Trustee. The Trustee shall be under no obligation to institute any suit, or to take any remedial or legal action under this Indenture or under or pursuant to any other Security Document or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trusts hereby created or in the enforcement of any rights and powers or fulfillment of any extraordinary duties under this Indenture, or under any other Security Document, until it shall be indemnified to its satisfaction against any and all reasonable compensation for services, costs and expenses, outlays, and counsel fees and other disbursements, and against all liability not due to its willful misconduct or gross negligence.

Section 9.03. Responsibilities of Trustee. (a) The Trustee shall have no responsibility in respect of the validity or sufficiency of this Indenture or of any other Security Document or the security provided hereunder or thereunder or the due execution of this Indenture by the Issuer, or the due execution of any other Security Document by any party (other than the Trustee) thereto, or in respect of the title or the value of the Facility, or in respect of the validity of the Bonds authenticated and delivered by the Trustee in accordance with this Indenture or to see to the recording or filing of any document or instrument whatsoever except as otherwise provided in Section 7.07. The recitals, statements and representations contained in this Indenture and in the Bonds shall be taken and be construed as made by and on the part of the Issuer and not by the Trustee, and the Trustee does not assume any responsibility for the correctness of the same; provided, however, that the Trustee shall be responsible for its representation contained in its certificate on the Bonds and for its responsibility as to filing or re-filing as contained in Section 7.07.

(b) The Trustee shall not be liable or responsible because of the failure of the Issuer to perform any act required of it by this Indenture or by any other Security Document or because of the loss of any moneys arising through the insolvency or the act or default or omission of any depository other than itself in which such moneys shall have been deposited under this Indenture or the Tax Regulatory Agreement. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, invested, withdrawn or transferred in accordance with this Indenture or the Tax

Regulatory Agreement or for any loss resulting from any such investment. The Trustee shall not be liable in connection with the performance of its duties under the Loan Agreement, under this Indenture or under any other Security Document except for its own willful misconduct or gross negligence. The immunities and exemptions from liability of the Trustee shall extend to its directors, officers, employees, agents and servants and persons under the Trustee's control or supervision.

(c) The Trustee, prior to the occurrence of an Event of Default and after curing of all Events of Default which may have occurred, if any, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise as a prudent man would exercise under the circumstances in the conduct of his own affairs. The Trustee shall not be charged with knowledge of the occurrence of an Event of Default unless, (i) the Trustee has not received any certificate, financial statement, insurance notice or other document regularly required to be delivered to the Trustee under the Loan Agreement or any other Security Document, (ii) the Trustee has not received payment of any amount required to be remitted to the Trustee under the Loan Agreement or any other Security Document, (iii) a Responsible Officer of the Trustee has actual knowledge thereof, or (iv) the Trustee has received written notice thereof from the Institution, the Issuer or any Bondholder. The Trustee shall not be charged with the knowledge of a Determination of Taxability unless the Trustee has received written notice thereof from the Internal Revenue Service, the Institution, the Issuer or any Bondholder or former Bondholder.

(d) The Trustee shall not be liable or responsible for the failure of the Institution to effect or maintain insurance on the Facility as provided in the Loan Agreement or the Mortgage nor shall it be responsible for any loss by reason of want or insufficiency in insurance or by reason of the failure of any insurer in which the insurance is carried to pay the full amount of any loss against which it may have insured the Issuer, the Institution, the Trustee or any other Person.

(e) The Trustee shall execute and cause to be filed those continuation statements, any additional financing statements and all other instruments required by it by Section 7.07 at the expense of the Institution.

(f) The Trustee shall on the same date as it shall render the statement required of it by Section 7.03, make annual reports to the Issuer and the Institution of all moneys received and expended during the preceding year by it under this Indenture and of any Event of Default known to it under the Loan Agreement or this Indenture or under any other Security Document.

(g) With respect to the Tax Regulatory Agreement, the Trustee shall not be required to make any payment of a Rebate Amount or any transfer of funds or take any other action required to be taken thereunder except upon the receipt of a written certificate of direction of an Authorized Representative of the Institution delivered to the Trustee in accordance with the terms of the Tax Regulatory Agreement. Notwithstanding any provision of the Tax Regulatory Agreement or any other Security Document, nothing in the Tax Regulatory Agreement, either

expressed or implied, shall be deemed to impose upon the Trustee any responsibility for the legal sufficiency of the Tax Regulatory Agreement to effect compliance with the Code nor any duty to independently review or verify any information or calculation furnished to the Trustee by the Institution.

(h) The permissive right of the Trustee to do things enumerated in this Indenture or the other Security Documents shall not be construed as a duty, and in doing or not doing so the Trustee shall not be answerable for other than its gross negligence or willful misconduct.

Section 9.04. Compensation of Trustee, Bond Registrar and Paying Agents.

The Trustee, the Bond Registrar and Paying Agents shall be entitled to receive and collect from the Institution as provided in the Loan Agreement payment or reimbursement for reasonable fees for services rendered hereunder and under each other Security Document and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee, the Bond Registrar or Paying Agents in connection therewith. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first right of payment prior to payment on account of the principal of or interest on any Bonds, upon the revenues (but not including any amounts held by the Trustee under Section 5.12, 6.04 or Article X) for the foregoing advances, fees, costs and expenses incurred.

Section 9.05. Evidence on Which Trustee May Act. (a) In case at any time it shall be necessary or desirable for the Trustee to make any investigation respecting any fact preparatory to taking or not taking any action, or doing or not doing anything, as such Trustee, and in any case in which this Indenture provides for permitting or taking any action, it may rely upon any certificate required or permitted to be filed with it under the provisions of this Indenture, and any such certificate shall be evidence of such fact to protect it in any action that it may or may not take, or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact.

(b) The Trustee may conclusively rely and shall be fully protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Indenture, upon any resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person, or to have been prepared and furnished pursuant to any of the provisions of this Indenture, or, at the sole cost and expense of the Institution, and when determined necessary in the reasonable discretion of the Trustee, upon the written opinion of any attorney (who may be an attorney for the Issuer or an employee of the Institution), engineer, appraiser, architect or accountant believed by the Trustee to be qualified in relation to the subject matter.

Section 9.06. Trustee and Paying Agents May Deal in Bonds. Any national banking association, bank or trust company acting as a Trustee or Paying Agent, and its respective directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds, and may join in any action which any Bondholder may be entitled to

take with like effect as if such association, bank or trust company were not such Trustee or Paying Agent.

Section 9.07. Resignation or Removal of Trustee. The Trustee may resign and thereby become discharged from the trusts created under this Indenture for any reason by giving written notice by first class mail, postage prepaid, to the Issuer, to the Institution and to the Holders of all Bonds not less than sixty (60) days before such resignation is to take effect, but such resignation shall not take effect until the appointment and acceptance thereof of a successor Trustee pursuant to Section 9.08.

The Trustee may be removed at any time by an instrument or concurrent instruments in writing filed with the Trustee and signed by the Issuer or the Majority Holders or their attorneys-in-fact duly authorized. Such removal shall become effective either upon the appointment and acceptance of such appointment by a successor Trustee or at the date specified in the instrument of removal. The Trustee shall promptly give notice of such filing to the Issuer and the Institution. No removal shall take effect until the appointment and acceptance thereof of a successor Trustee pursuant to Section 9.08.

If the Trustee shall resign or shall be removed, such Trustee must transfer and assign to the successor Trustee, not later than the date of this acceptance by the successor Trustee of its appointment as such, or thirty (30) days from the date specified in the instrument of removal or resignation, if any, whichever shall last occur, (i) all amounts (including all investments thereof) held in any Fund or Account under this Indenture, together with a full accounting thereof, (ii) all records, files, correspondence, registration books, Bond inventory, all information relating to this Indenture and to Bond payment status (i.e., outstanding principal balances, principal payment and interest payment schedules, Sinking Fund Installment schedules, pending notices of redemption, payments made and to whom, delinquent payments, default or delinquency notices, deficiencies in any Fund or Account balance, etc.) and all such other information (in whatever form) relating to all Funds and Accounts in the possession of the Trustee being removed or resigning, and (iii) all Security Documents and other documents or agreements, including, without limitation, all Uniform Commercial Code Financing Statements, all insurance policies or certificates, letters of credit or other instruments provided to the Trustee being removed or resigning (clauses (i), (ii) and (iii), together with the Trust Estate, being collectively referred to as the “**Trust Corpus**”).

Section 9.08. Successor Trustee. (a) If at any time the Trustee shall be dissolved or otherwise become incapable of acting or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator thereof, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs, the position of Trustee shall thereupon become vacant. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason or if the Trustee shall resign, the Institution shall cooperate with the Issuer and the Issuer shall appoint a successor Trustee and shall use its best efforts to obtain acceptance of such trust by the successor Trustee within sixty (60) days from such vacancy or notice of resignation. Within twenty (20) days after such appointment and acceptance, the Issuer shall notify in writing the Institution and the Holders of all Bonds.

(b) In the event of any such vacancy or resignation and if a successor Trustee shall not have been appointed within sixty (60) days of such vacancy or notice of resignation, the Majority Holders, by an instrument or concurrent instruments in writing, signed by such Bondholders or their attorneys-in-fact thereunto duly authorized and filed with the Issuer, may appoint a successor Trustee which shall, immediately upon its acceptance of such trusts, and without further act, supersede the predecessor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section 9.08, within ninety (90) days of such vacancy or notice of resignation, the Holder of any Bond then Outstanding, the Issuer or any retiring Trustee or the Institution may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

(c) Any Trustee appointed under this Section shall be a national banking association or a bank or trust company duly organized under the laws of any state of the United States authorized to exercise corporate trust powers under the laws of the State and authorized by law and its charter to perform all the duties imposed upon it by this Indenture and each other Security Document. At the time of its appointment, any successor Trustee shall (x) have a capital stock and surplus aggregating not less than \$100,000,000 and (y) have an investment grade rating of at least “Baa3” or “P-3”.

(d) Any predecessor Trustee shall transfer to any successor Trustee appointed under this Section as a result of a vacancy in the position the Trust Corpus by a date not later than thirty (30) days from the date of the acceptance by the successor Trustee of its appointment as such. Where no vacancy in the position of the Trustee has occurred, the transfer of the Trust Corpus shall take effect in accordance with the provisions of Section 9.07.

(e) Every successor Trustee shall execute, acknowledge and deliver to its predecessor, and also to the Issuer, an instrument in writing accepting such appointment, and thereupon such successor Trustee, without any further act, deed, or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers and trusts, and subject to all the duties and obligations, of its predecessor, with like effect as if originally named as such Trustee; but such predecessor shall, nevertheless, on the written request of its successor or of the Issuer, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are due and payable pursuant to Section 9.04, execute and deliver an instrument transferring to such successor Trustee all the estate, properties, rights, immunities, powers and trusts of such predecessor and the Trust Corpus; and every predecessor Trustee shall deliver all property and moneys, together with a full accounting thereof, held by it under this Indenture to its successor. Should any instrument in writing from the Issuer be required by any successor Trustee for more fully and certainly vesting in such Trustee the estate, properties, rights, immunities, powers and trusts vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall, on request, be executed, acknowledged and delivered by the Issuer. Any successor Trustee shall promptly notify the Issuer and the Paying Agent of its appointment as Trustee.

(f) Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a national banking association or a bank or trust company duly organized under the laws of any state of the United States and shall be authorized by law and its charter to perform all the duties imposed upon it by this Indenture and each other Security Document shall be the successor to such Trustee without the execution or filing of any paper or the performance of any further act.

Section 9.09. Paying Agents. (a) The Trustee is hereby appointed as Paying Agent for the Bonds. The Issuer may also from time to time appoint one or more other Paying Agents in the manner and subject to the conditions set forth in Section 9.09(b) for the appointment of a successor Paying Agent. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Indenture by executing and delivering to the Issuer, and in the case of all Paying Agents other than the Trustee, to the Trustee a written acceptance thereof. The principal offices of the Paying Agents are designated as the respective offices or agencies of the Issuer for the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest on the Bonds. Each Paying Agent shall not be liable in connection with the performance of its duties hereunder except for its own willful misconduct or gross negligence.

(b) Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least sixty (60) days prior written notice to the Issuer and the Trustee. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by the Issuer. Any successor Paying Agent shall be appointed by the Issuer, with the approval of the Trustee, and shall be a commercial bank or trust company duly organized under the laws of any state of the United States or a national banking association, having a capital stock and surplus aggregating at least \$40,000,000, having an investment grade rating of at least “Baa3” or “P-3”, and willing and able to accept the office on reasonable and customary terms and authorized by law and its charter to perform all the duties imposed upon it by this Indenture.

(c) In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

Section 9.10. Appointment of Co-Trustee. (a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or under any other Security Document, and in particular in case of the enforcement of any powers, rights or remedies on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which

may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional institution as a separate trustee or co-trustee. The following provisions of this Section are adapted to these ends.

(b) In the event that the Trustee appoints an additional institution as a separate trustee or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate trustee or co-trustee but only to the extent necessary to enable such separate trustee or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate trustee or co-trustee shall run to and be enforceable by either of them. Such co-trustee may be removed by the Trustee at any time, with or without cause.

(c) Should any instrument in writing from the Issuer be required by the separate trustee or co-trustee so appointed or removed by the Trustee for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

(d) No trustee shall be liable for the acts or omissions of any other trustee hereunder.

Section 9.11. Patriot Act. The Trustee hereby acknowledges that in accordance with Section 326 of the U.S.A. Patriot Act (being the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, as amended, and signed into law October 26, 2001), each depository bank, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with a depository bank. The Trustee hereby acknowledges that it shall obtain such information from the other Notice Parties as may be required in order for it to satisfy the requirements of the U.S.A. Patriot Act.

ARTICLE X

DISCHARGE OF INDENTURE; DEFEASANCE

Section 10.01. Defeasance. (a) Subject to the limits of clause (d) of Section 149 of the Code, if the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal or Redemption Price, if applicable, of, Sinking Fund Installments for, interest and all other amounts due or to become due thereon or in respect thereof, at the times and in the manner stipulated therein and in this Indenture, and all fees and expenses and other amounts due and payable under this Indenture and the Loan Agreement, and any other amounts required to be rebated to the federal government pursuant to the Tax Regulatory Agreement or this Indenture, shall be paid in full, then the pledge of any loan payments, revenues or receipts from or in connection with the Security Documents or the Facility under this Indenture and the estate and rights hereby granted, and all covenants, agreements and other obligations of the Issuer to the Bondholders hereunder shall thereupon cease, terminate and become void and be discharged and satisfied and the Bonds shall thereupon cease to be entitled to any lien, benefit or security hereunder, except as to moneys or securities held by the Trustee or the Paying Agents as provided below in this subsection. At the time of such cessation, termination, discharge and satisfaction, (1) the Trustee shall cancel and discharge the lien of this Indenture and of the Mortgage and execute and deliver to the Institution all such instruments as may be appropriate to satisfy such liens and to evidence such discharge and satisfaction, and (2) the Trustee and the Paying Agents shall pay over or deliver to the Institution or on its order all moneys or securities held by them pursuant to this Indenture which are not required (i) for the payment of the principal or Redemption Price, if applicable, Sinking Fund Installments for, or interest on Bonds not theretofore surrendered for such payment or redemption, (ii) for the payment of all such other amounts due or to become due under the Security Documents, or (iii) for the payment of any amounts the Trustee has been directed to pay to the federal government under the Tax Regulatory Agreement or this Indenture.

(b) Subject to the limits of clause (d) of Section 149 of the Code, if Bonds or interest installments for the payment or redemption of which moneys (or Defeasance Obligations which shall not be subject to call or redemption or prepayment prior to maturity and the full and timely payment of the principal of and interest on which when due, together with the moneys, if any, set aside at the same time, will provide funds sufficient for such payment or redemption) shall then be set aside and held in trust by the Trustee or Paying Agents, whether at or prior to the maturity or the redemption date of such Bonds, shall be deemed to have been paid within the meaning and with the effect expressed in subsection (a) of this Section, if (i) in case any such Bonds are to be redeemed prior to the maturity thereof, all action necessary to redeem such Bonds shall have been taken and notice of such redemption shall have been duly given or provision satisfactory under the requirements of this Indenture to the Trustee shall have been made for the giving of such notice, and (ii) if the maturity or redemption date of any such Bond shall not then have arrived, (y) provision shall have been made by deposit with the Trustee or other methods satisfactory to the Trustee for the payment to the Holders of any such Bonds of the full amount to which they would be entitled by way of principal or Redemption Price, Sinking Fund Installments, and interest and all other amounts then due under the Security

Documents to the date of such maturity or redemption, and (z) provision satisfactory to the Trustee shall have been made for the mailing of a notice to the Holders of such Bonds that such moneys are so available for such payment on such maturity or redemption date.

Section 10.02. Defeasance Opinion and Verification. Prior to any defeasance becoming effective as provided in Section 10.01(b), there shall have been delivered to the Issuer and to the Trustee (A) an opinion of Nationally Recognized Bond Counsel to the effect that interest on any Bonds being discharged by such defeasance will not become subject to federal income taxation by reason of such defeasance, and (B) a verification from an independent certified public accountant or firm of independent certified public accountants (in each case reasonably satisfactory to the Issuer and the Trustee) to the effect that the moneys and/or Defeasance Obligations are sufficient, without reinvestment, to pay the principal of, Sinking Fund Installments for, interest on, and redemption premium, if any, of the Bonds to be defeased, unless a defeasance escrow is funded with cash only for a term of not more than 60 days.

Section 10.03. No Limitation of Rights of Holders. No provision of this Article X, including any defeasance of Bonds, shall limit the rights of the Holder of any Bonds under Section 3.06, 3.07 or 3.09 until such Bonds shall have been paid in full.

ARTICLE XI

AMENDMENTS OF INDENTURE

Section 11.01. Limitation on Modifications. This Indenture shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article.

Section 11.02. Supplemental Indentures Without Bondholders' Consent.
(a) The Issuer and the Trustee may, from time to time and at any time, enter into Supplemental Indentures without the consent of the Bondholders for any of the following purposes:

(1) To cure any formal defect, omission or ambiguity in this Indenture or in any description of property subject to the lien hereof, if such action in the Opinion of Counsel is not materially adverse to the interests of the Bondholders.

(2) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Indenture as theretofore in effect.

(3) To add to the covenants and agreements of the Issuer in this Indenture other covenants and agreements to be observed by the Issuer which are not contrary to or inconsistent with this Indenture as theretofore in effect.

(4) To add to the limitations and restrictions in this Indenture other limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Indenture as theretofore in effect.

(5) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by, this Indenture, of the properties of the Facility, or revenues or other income from or in connection with the Facility or of any other moneys, securities or funds, or to subject to the lien or pledge of this Indenture additional revenues, properties or collateral.

(6) To modify or amend such provisions of this Indenture as shall, in the opinion of Nationally Recognized Bond Counsel, be necessary to assure that the interest on the Bonds not be includable in gross income for federal income tax purposes.

(7) To effect any other change herein which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Bondholders.

(8) To modify, amend or supplement this Indenture or any Supplemental Indenture in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Bonds for sale under the securities laws of the United

States of America or of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any Supplemental Indenture such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute.

(b) Before the Issuer and the Trustee shall enter into any Supplemental Indenture pursuant to this Section, there shall have been filed with the Trustee an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in accordance with its terms.

Section 11.03. Supplemental Indentures With Bondholders' Consent.
(a) Subject to the terms and provisions contained in this Article, the Majority Holders shall have the right from time to time, to consent to and approve the entering into by the Issuer and the Trustee of any Supplemental Indenture as shall be deemed necessary or desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained herein. Nothing herein contained shall permit, or be construed as permitting, (i) a change in the times, amounts or currency of payment of the principal of, Sinking Fund Installments for, redemption premium, if any, or interest on any Outstanding Bonds, a change in the terms of redemption or maturity of the principal of or the interest on any Outstanding Bonds, or a reduction in the principal amount of or the Redemption Price of any Outstanding Bond or the rate of interest thereon, or any extension of the time of payment thereof, without the consent of the Holder of such Bond, (ii) the creation of a lien upon or pledge of the Trust Estate other than the liens or pledge created by this Indenture and the other Security Documents, except as provided in this Indenture with respect to Additional Bonds, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds, (iv) a reduction in the aggregate principal amount of Bonds required for consent to such Supplemental Indenture, or (v) a modification, amendment or deletion with respect to any of the terms set forth in this Section 11.03(a), without, in the case of items (ii) through and including (v) of this Section 11.03(a), the written consent of one hundred percent (100%) of the Holders of the Outstanding Bonds.

(b) If at any time the Issuer shall determine to enter into any Supplemental Indenture for any of the purposes of this Section, it shall cause notice of the proposed Supplemental Indenture to be mailed, postage prepaid, to all Bondholders. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture, and shall state that a copy thereof is on file at the offices of the Trustee for inspection by all Bondholders.

(c) Within one year after the date of such notice, the Issuer and the Trustee may enter into such Supplemental Indenture in substantially the form described in such notice only if there shall have first been filed with the Trustee (i) the written consents of the Majority Holders or the Holders of not less than 100%, as the case may be, in aggregate principal amount of the Bonds then Outstanding and (ii) an opinion of Nationally Recognized Bond Counsel stating that such Supplemental Indenture (A) is authorized or permitted by this Indenture and complies with its terms, and that upon execution it will be valid and binding upon the Issuer in

accordance with its terms and (B) will not cause the interest on any Series of Bonds to become includable in gross income for federal income tax purposes. Each valid consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given. A certificate or certificates by the Trustee that it has examined such proof and that such proof is sufficient in accordance with this Indenture shall be conclusive that the consents have been given by the Holders of the Bonds described in such certificate or certificates. Any such consent shall be binding upon the Holder of the Bonds giving such consent and upon any subsequent Holder of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Holder thereof has notice thereof), unless such consent is revoked in writing by the Holder of such Bonds giving such consent or a subsequent Holder thereof by filing such revocation with the Trustee prior to the execution of such Supplemental Indenture.

(d) If the Holders of not less than the percentage of Bonds required by this Section shall have consented to and approved the execution thereof as herein provided, no Holder of any Bond shall have any right to object to the execution of such Supplemental Indenture, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Issuer from executing the same or from taking any action pursuant to the provisions thereof.

(e) Upon the execution of any Supplemental Indenture pursuant to the provisions of this Section, this Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Issuer, the Trustee and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced under this Indenture, subject in all respects to such modifications and amendments.

Section 11.04. Supplemental Indenture Part of this Indenture. Any Supplemental Indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture and all the terms and conditions contained in any such Supplemental Indenture as to any provisions authorized to be contained therein shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes. The Trustee shall execute any Supplemental Indenture entered into in accordance with the provisions of Section 11.02 or 11.03.

ARTICLE XII

AMENDMENTS OF RELATED SECURITY DOCUMENTS

Section 12.01. Rights of Institution. Anything herein to the contrary notwithstanding, any Supplemental Indenture entered into pursuant to Article XI which materially and adversely affects any rights, powers and authority of the Institution under the Loan Agreement or requires a revision of the Loan Agreement shall not become effective unless and until the Institution shall have given its written consent to such Supplemental Indenture signed by an Authorized Representative of the Institution.

Section 12.02. Amendments of Related Security Documents Not Requiring Consent of Bondholders. The Issuer and the Trustee may, without the consent of or notice to the Bondholders, consent (if required) to any amendment, change or modification of any of the Related Security Documents for any of the following purposes: (i) to cure any ambiguity, inconsistency, formal defect or omission therein; (ii) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security which may be lawfully granted or conferred; (iii) to subject thereto additional revenues, properties or collateral; (iv) to evidence the succession of a successor Trustee or to evidence the appointment of a separate or co-Trustee or the succession of a successor separate or co-Trustee; (v) to make any change required in connection with a permitted amendment to a Related Security Document or a permitted Supplemental Indenture; and (vi) to make any other change that, in the judgment of the Trustee (which, in exercising such judgment, may conclusively rely, and shall be protected in relying, in good faith, upon an Opinion of Counsel or an opinion or report of engineers, accountants or other experts) does not materially adversely affect the Bondholders. The Trustee shall have no liability to any Bondholder or any other Person for any action taken by it in good faith pursuant to this Section. Before the Issuer or the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not cause the interest on any of the Bonds to cease to be excluded from gross income for federal income tax purposes under the Code.

Section 12.03. Amendments of Related Security Documents Requiring Consent of Bondholders. Except as provided in Section 12.02, the Issuer and the Trustee shall not consent to any amendment, change or modification of any of the Related Security Documents, without mailing of notice and the written approval or consent of the Majority Holders given and procured as in Section 11.03 set forth; provided, however, there shall be no amendment, change or modification to (i) the obligation of the Institution to make loan payments with respect to the Bonds under the Loan Agreement or the Promissory Note or (ii) the Tax Regulatory Agreement, without the delivery of an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change, modification, reduction or postponement will not cause the interest on any Series of Bonds to become includable in gross income for federal income tax purposes. If at any time the Institution shall request the consent of the Trustee to any such proposed amendment, change or modification, the Trustee shall cause notice

of such proposed amendment, change or modification to be mailed in the same manner as is provided in Article XI with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file at the principal office of the Trustee for inspection by all Bondholders. The Trustee may, but shall not be obligated to, enter into any such amendment, change or modification to a Related Security Document which affects the Trustee's own rights, duties or immunities under such Related Security Document or otherwise. Before the Trustee shall enter into or consent to any amendment, change or modification to any of the Related Security Documents, there shall be filed with the Trustee an opinion of Nationally Recognized Bond Counsel to the effect that such amendment, change or modification will not cause the interest on any of the Bonds to cease to be excluded from gross income for federal income tax purposes under the Code.

ARTICLE XIII

MISCELLANEOUS

Section 13.01. Evidence of Signature of Bondholders and Ownership of

Bonds. (a) Any request, consent, revocation of consent, approval, objection or other instrument which this Indenture may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by any Bondholder in person or by his duly authorized attorney appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Indenture (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable: the fact and date of the execution by any Bondholder or his attorney of such instruments may be proved by a guarantee of the signature thereon by a member of the Stock Exchanges Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15, or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. For the purposes of the transfer or exchange of any Bond, the fact and date of the execution of the Bondholder or his attorney of the instrument of transfer shall be proved by a guarantee of the signature thereon by a member of the Stock Exchanges Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15. Where such execution is by an officer of a corporation or association or a member of a partnership, on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

(b) The ownership of Bonds and the amount, numbers and other identification shall be proved by the registry books.

(c) Except as otherwise provided in Section 11.03 with respect to revocation of a consent, any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Issuer or the Trustee or any Paying Agent in accordance therewith.

Section 13.02. Notices. Any notice, demand, direction, certificate, Opinion of Counsel, request, instrument or other communication authorized or required by this Indenture to be given to or filed with the Issuer, the Institution or the Trustee shall be sufficient if sent (i) by return receipt requested or registered or certified United States mail, postage prepaid, (ii) by a nationally recognized overnight delivery service for overnight delivery, charges prepaid or (iii) by hand delivery, addressed, as follows:

- (1) if to the Issuer, to

Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: General Counsel

with a copy to

Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: Executive Director

- (2) if to the Institution, to

Friends of Academic Leadership CS, LLC
c/o Academic Leadership Charter School
677 East 141st Street
Bronx, New York 10454
Attention: Norma Hurwitz, Executive Director

with a copy to

Harris Beach PLLC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.

if to the School, to

- (3) Academic Leadership Charter School

677 East 141st Street
Bronx, New York 10454
Attention: Norma Hurwitz, Executive Director

with a copy to

Harris Beach PLLC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.

and

- (4) if to the Trustee, to

The Bank of New York Mellon
101 Barclay Street, Floor 7W
New York, New York 10286
Attention: Corporate Trust Administration

- (5) if to the Custodian, to

The Bank of New York Mellon
101 Barclay Street, Floor 7W
New York, New York 10286
Attention: Corporate Trust Administration

The Issuer, the Institution, the School and the Trustee may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted for overnight delivery by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder.

Section 13.03. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the Issuer, the Institution, the Trustee, the Bond Registrar, the Paying Agents and the Holders of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation thereof. All covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the Institution, the Trustee, the Bond Registrar, the Paying Agents and the Holders of the Bonds.

Section 13.04. Partial Invalidity. If any one or more of the provisions of this Indenture or of the Bonds shall be ruled illegal or invalid by any court of competent jurisdiction, the illegality or invalidity of such provision(s) shall not affect any of the remaining provisions hereof or of the Bonds, but this Indenture and the Bonds shall be construed and enforced as of such illegal or invalid provision had not been contained herein.

Section 13.05. Effective Date; Counterparts. The date of this Indenture shall be for reference purposes only and shall not be construed to imply that this Indenture was

executed on the date first above written. This Indenture was delivered on the Closing Date. This Indenture shall become effective upon its delivery on the Closing Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.06. Laws Governing Indenture. This Indenture shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without regard or giving effect to the principles of conflicts of laws thereof.

Section 13.07. No Pecuniary Liability of Issuer or Members; No Debt of the State or the City. Every agreement, covenant and obligation of the Issuer under this Indenture is predicated upon the condition that any obligation for the payment of money incurred by the Issuer shall not create a debt of the State or the City and neither the State nor the City shall be liable on any obligation so incurred, and the Bonds shall not be payable out of any funds of the Issuer other than those pledged therefor but shall be a limited revenue obligation of the Issuer payable by the Issuer solely from the loan payments, revenues and receipts pledged to the payment thereof in the manner and to the extent in this Indenture specified and nothing in the Bonds, in the Loan Agreement, in this Indenture or in any other Security Document shall be considered as pledging any other funds or assets of the Issuer. The Issuer shall not be required under this Indenture or the Loan Agreement or any other Security Document to expend any of its funds other than (i) the proceeds of the Bonds, (ii) the loan payments, revenues and receipts and other moneys pledged to the payment of the Bonds, (iii) any income or gains therefrom, and (iv) the Net Proceeds with respect to the Facility. No provision, covenant or agreement contained in this Indenture or in the Bonds or any obligations herein or therein imposed upon the Issuer or the breach thereof, shall constitute or give rise to or impose upon the Issuer a pecuniary liability or a charge upon its general credit.

All covenants, stipulations, promises, agreements and obligations of the Issuer contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Issuer and not of any member, director, officer, employee or agent of the Issuer in his individual capacity, and no recourse shall be had for the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, or interest on the Bonds or for any claim based thereon or hereunder against any member, director, officer, employee or agent of the Issuer or any natural person executing the Bonds. Neither the Bonds, the interest thereon, the Sinking Fund Installments therefor, nor the Redemption Price thereof shall ever constitute a debt of the State or of the City and neither the State nor the City shall be liable on any obligation so incurred, and the Bonds shall not be payable out of any funds of the Issuer other than those pledged therefor.

Section 13.08. Priority of Indenture Over Liens. This Indenture and the Mortgage are given in order to secure funds to pay for the Project and by reason thereof, it is intended that this Indenture and the Mortgage shall be superior to any laborers', mechanics' or materialmen's liens which may be placed upon the Facility subsequent to the recordation of the Mortgage. In compliance with Section 13 of the Lien Law, the Issuer will receive the advances secured by this Indenture and the Mortgage and will hold the right to receive such advances as a

trust fund to be applied first for the purpose of paying the cost of improvements and that the Issuer will apply the same first to the payment of the costs of improvements before using any part of the total of the same for any other purpose.

Section 13.09. Consent to Jurisdiction. Each party hereto irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of or related to this Indenture may be brought in the courts of record of the State in New York County or the United States District Court for the Southern District of New York; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; (iii) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (iv) waives and relinquishes any rights it might otherwise have (x) to move to dismiss on grounds of forum non conveniens, (y) to remove to any federal court other than the United States District Court for the Southern District of New York, and (z) to move for a change of venue to a New York State Court outside New York County.

Section 13.10. Waiver of Trial by Jury. Each party hereto hereby expressly waives all rights to a trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Indenture or any matters whatsoever arising out of or in any way connected with this Indenture. The provisions of this Indenture relating to waiver of trial by jury shall survive the termination or expiration of this Indenture.

Section 13.11. Legal Counsel; Mutual Drafting. Each party acknowledges that this Indenture is a legally binding contract and that it was represented by legal counsel in connection with the drafting, negotiation and preparation of this Indenture. Each party acknowledges that it and its legal counsel has cooperated in the drafting, negotiation and preparation of this Indenture and agrees that this Indenture and any provision hereof shall be construed, interpreted and enforced without regard to any presumptions against the drafting party. Each party hereby agrees to waive any rule, doctrine or canon of law, including without limitation, the *contra preferentum* doctrine, that would require interpretation of any ambiguities in this Indenture against the party that has drafted it.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Build NYC Resource Corporation, New York, New York, has caused these presents to be executed in its name and behalf by its Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel and, to evidence its acceptance of the trust hereby created, the Trustee has caused these presents to be signed in its name and behalf by an authorized representative and its corporate seal to be hereunto affixed, all as of the day and year first above written.

BUILD NYC RESOURCE CORPORATION

By: _____
Krishna Omolade
Executive Director

THE BANK OF NEW YORK MELLON, as
Trustee

By: _____
Name: Craig S. Wenzler
Title: Vice President

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On the ____ day of _____, of the year two thousand nineteen, before me, the undersigned, personally appeared Krishna Omolade known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon the behalf of whom the individual acted, executed the instrument.

Notary Public/Commissioner of Deeds

[SIGNATURE PAGE TO INDENTURE OF TRUST]

[NOTARY PAGE TO INDENTURE OF TRUST]

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

On the ____ day of _____, in the year two thousand _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [he] [she] executed the same in [his] [her] capacity, and that by [his] [her] signature on the instrument, the individual, or the person upon the behalf of whom the individual acted, executed the instrument.

Notary Public

APPENDICES

[NOTARY PAGE TO INDENTURE OF TRUST]

EXHIBIT A

DESCRIPTION OF THE LAND

ALL that certain plot piece or parcel of land, with the buildings and improvements thereon erected situate, lying and being in the Borough and County of Bronx, City and State of New York bounded and described as follows:

BEGINNING at a point on the southerly side of East 139th Street, distant 231.50 feet westerly from the corner formed by the intersection of the westerly side of Willis Avenue with the southerly side of East 139th Street;

RUNNING THENCE southerly, at right angles with East 139th Street, 100.00 feet to the center line of the block between East 138th Street and East 139th Street;

THENCE westerly, along the center line of said Block 125.00 feet;

THENCE northerly, at right angles with East 139th Street, 100.00 feet to the southerly side of East 139th Street;

THENCE easterly, along the southerly side of East 139th Street, 125.00 feet to the point or place of BEGINNING.

EXHIBIT B

DESCRIPTION OF THE FACILITY PERSONALTY

[TO COME]

EXHIBIT C

FORM OF FULLY REGISTERED INITIAL BOND

THIS BOND SHALL NEVER CONSTITUTE A DEBT OR INDEBTEDNESS OF THE STATE OF NEW YORK OR OF THE CITY OF NEW YORK, AND NEITHER THE STATE OF NEW YORK NOR THE CITY OF NEW YORK SHALL BE LIABLE HEREON, NOR SHALL THIS BOND BE PAYABLE OUT OF ANY FUNDS OF THE BUILD NYC RESOURCE CORPORATION OTHER THAN THOSE PLEDGED THEREFOR

BUILD NYC RESOURCE CORPORATION
REVENUE BOND
(Academic Leadership Charter School Project) Series 2021

Bond Date: June 16, 2021

Maturity Date: June 15, 2036

Registered Owner: Cede & Co.

Principal Amount: [_____]

Interest Rate: 4.00%

Bond Number: R-

CUSIP:

Promise to Pay. Build NYC Resource Corporation, a local development corporation created pursuant to the Not-for-Profit Corporation Law of the State of New York at the direction of the Mayor of The City of New York (herein called the "Issuer"), for value received, hereby promises to pay as hereinafter provided, solely from the loan payments, revenues and receipts as provided in this Indenture of Trust hereinafter referred to, to the Registered Holder identified above or registered assigns, upon presentation and surrender hereof, on the Maturity Date set forth above, the Principal Amount set forth above, and in like manner to pay interest at the Interest Rate set forth above on the unpaid principal balance hereof from the Bond Date set forth above until the Issuer's obligation with respect to the payment of such Principal Amount shall be discharged. Payment of interest shall be made on June 15 and December 15 in each year, commencing December 15, 2021 (or, if such day is not a Business Day, the immediately succeeding Business Day). Such interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months. In no event shall the interest rate payable hereon exceed the maximum permitted by, or enforceable under, applicable law. Payment shall be made in any coin or currency of the United States of America which, on the respective dates of payment, is legal tender for the payment of public and private debts. Capitalized terms used

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but not defined in this bond shall have the respective meanings assigned to such terms in this Indenture hereinafter referred to.

This bond shall bear interest from the Bond Date indicated above, if authenticated prior to the first Interest Payment Date. If authenticated on or after the first Interest Payment Date, in exchange for or upon the registration of transfer of Bonds (as defined below), this bond shall bear interest from and including the Interest Payment Date next preceding the date of the authentication hereof, unless the date of such authentication shall be an Interest Payment Date to which interest hereon has been paid in full or duly provided for, in which case, this bond shall bear interest from and including such Interest Payment Date.

If there shall occur, and for so long as there shall continue to exist, an Event of Default (other than by reason of a failure to redeem the Bonds in whole if there shall have occurred a Determination of Taxability), the annual rate of interest on the Bonds shall be the Default Rate commencing with the date of the occurrence of the Event of Default and any additional interest thereby due with respect to a period of time for which interest has already been paid shall be payable on the Interest Payment Date next following the Event of Default. Any former Bondholder who was a Bondholder commencing on or after the date of the occurrence of the Event of Default, but who subsequent to such date sold or otherwise disposed of its Bonds or whose Bonds were redeemed or matured, shall be entitled to receive from the Institution under the Loan Agreement (as such terms are hereinafter defined) the following, in an amount allocable to such period during which it held the Bonds subsequent to the Event of Default and the date upon which the Bonds were sold, or otherwise disposed of, or redeemed or matured: the difference between the rate of interest borne by the Bonds prior to the Event of Default and the rate borne by the Bonds on and subsequent to such date.

If there shall occur a Determination of Taxability, the annual rate of interest on the Bonds shall be the Taxable Rate commencing with the date of the Event of Taxability and any additional interest thereby due with respect to a period of time for which interest has already been paid shall be payable on the Interest Payment Date next following the Determination of Taxability. Any former Bondholder who was a Bondholder commencing on or after the date of the occurrence of an Event of Taxability, but who subsequent to such date sold or otherwise disposed of its Bonds or whose Bonds were redeemed or matured, shall be entitled to receive from the Institution under the Loan Agreement the following, in an amount allocable to such period during which it held the Bonds subsequent to the Event of Taxability and the date upon which the Bonds were sold, or otherwise disposed of, or redeemed or matured: the difference between the rate of interest borne by the Bonds prior to the Event of Taxability and the rate borne by the Bonds on and subsequent to such date.

Method of Currency. The principal, Purchase Price or Redemption Price of, Sinking Fund Installments for, and interest on the Bonds shall be payable in any coin or currency of the United States of America that on the respective dates of payment thereof is legal tender for the payment of public and private debts.

Payments. The principal of, Sinking Fund Installments for, and the Redemption Price, if applicable, on all Bonds shall be payable by check or draft or wire transfer of immediately available funds at maturity or upon earlier redemption to the Persons in whose

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names such Bonds are registered on the bond registration books maintained by the Trustee as Bond Registrar at the maturity or redemption date thereof, provided, however, that the payment in full of any Bond either at final maturity or upon redemption in whole shall only be payable upon the presentation and surrender of such Bonds at the designated corporate trust office of The Bank of New York Mellon in New York, New York, as trustee and paying agent (the “Paying Agent”), or at the corporate trust office of any successor Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid by the Trustee to the registered owner of such Bond as shown on the bond registration books of the Trustee as Bond Registrar at the close of business on the Regular Record Date for such interest, (1) by check or draft mailed to such registered owner at his address as it appears on the bond registration books or at such other address as is furnished to the Trustee in writing by such owner, or (2) if such Bonds are held by a Securities Depository or, at the written request addressed to the Trustee by any registered owner of Bonds in the aggregate principal amount of at least \$1,000,000 that all such payments be made by wire transfer, by electronic transfer in immediately available funds to the bank for credit to the ABA routing number and account number filed with the Trustee no later than five (5) Business Days before an Interest Payment Date, but no later than a Regular Record Date for any interest payment.

Interest on any Bond that is due and payable but not paid on the date due (“Defaulted Interest”) shall cease to be payable to the owner of such Bond on the relevant Regular Record Date and shall be payable to the owner in whose name such Bond is registered at the close of business on a special record date (the “Special Record Date”) for the payment of such Defaulted Interest, which Special Record Date shall be fixed as provided in this Indenture.

Authorization and Purpose. This bond is one of an authorized issue of bonds designated as “Build NYC Resource Corporation Revenue Bonds” (Academic Leadership Charter School Project), Series 2021 (the “Bonds”) issued in the aggregate principal amount of \$17,770,000. The Bonds are being issued under and pursuant to and in full compliance with the Constitution and laws of the State of New York, particularly the Not-for-Profit Corporation Law of the State of New York, and under and pursuant to a resolution adopted by the members of the Issuer on July 16, 2019 authorizing the issuance of the Bonds and under and pursuant to an Indenture of Trust, dated as of June 1, 2021 (as the same may be amended or supplemented, the “Indenture”), made and entered into by and between the Issuer and The Bank of New York Mellon, as trustee (said bank and any successor thereto under this Indenture being referred to herein as the “Trustee”), for the purpose of financing a portion of the cost of (1) the construction, equipping, and/or furnishing of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space for students in grades 3 to 5 (collectively, the “New Facility”) on an approximately 0.29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454, the making of renovations to such building, and the acquisition and installation of machinery and equipment in connection therewith, all for use in the providing of services to Academic Leadership Charter School (the “School”); and (2) the payment of certain costs related to the issuance of the Initial Bonds (the “Project”) on behalf of Friends of Academic Leadership CS, LLC, a limited liability company, organized and existing under the laws of the State of New York (hereinafter together with any assignee of the Loan Agreement hereafter referred to, called the “Institution”). In order to finance a portion of the costs of the Project, the Issuer has made a loan to the Institution in the original principal amount of the Bonds from the

proceeds of the Bonds pursuant to a certain Loan Agreement, dated as of June 1, 2021, between the Issuer and the Institution (as the same may be amended or supplemented, the “Loan Agreement”), and the Institution has executed a certain Promissory Note dated the date of original issuance of the Bonds in favor of the Issuer (as the same may be amended or supplemented, the “Promissory Note”) to evidence the Institution’s obligation under the Loan Agreement to repay such loan. Each of the Loan Agreement and the Promissory Note requires the payment by the Institution of loan payments sufficient to provide for the payment of the principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest on the Bonds as the same become due. Copies of this Indenture, the Loan Agreement, the Promissory Note, and the Mortgage hereinafter referred to are on file at the designated corporate trust office of the Trustee in New York, New York, and reference is made to such documents for the provisions relating, among other things, to the terms and security of the Bonds, the charging and collection of loan payments, the custody and application of the proceeds of the Bonds, the rights and remedies of the holders of the Bonds, and the rights, duties and obligations of the Issuer, the Institution and the Trustee.

Pledge and Security. Pursuant to this Indenture, the Issuer has assigned to the Trustee all of its right, title and interest in and to the Promissory Note and substantially all of its right, title and interest in and to the Loan Agreement, including all rights to receive loan payments sufficient to pay the principal or Redemption Price, if any, of, Sinking Fund Installments for, and interest and all other amounts due on the Bonds as the same become due, to be made by the Institution pursuant to the Loan Agreement and the Promissory Note. The Bonds are also secured by mortgage liens on and security interests in the Institution’s fee title interest in the Facility pursuant to a Mortgage and Security Agreement (Building Loan), dated as of June 1, 2021, and each from the Institution to the Issuer and the Trustee (as each of the same may hereafter be amended or supplemented, collectively the “Mortgage”). Pursuant to an Assignment of Mortgage (as defined in this Indenture), the Issuer has assigned to the Trustee all of the Issuer’s right, title and interest in and to the Mortgage.]

The Bonds are special limited revenue obligations of the Issuer and shall never constitute a debt of the State of New York or of The City of New York, and neither the State of New York nor The City of New York shall be liable thereon, nor shall the Bonds be payable out of any funds of the Issuer other than those pledged therefor.

Reference is hereby made to this Indenture for the definition of any capitalized word or term used but not defined herein and for a description of the property pledged, assigned and otherwise available for the payment of the Bonds, the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Trustee and the holders of the Bonds, and the terms upon which the Bonds are issued and secured.

Additional Bonds. As provided in this Indenture, upon satisfying certain conditions including obtaining certain prescribed Bondholder consents, a Series of Additional Bonds may be issued from time to time in one or more series for the purpose of financing the cost of completing the Project, providing funds in excess of Net Proceeds to repair, relocate, replace, rebuild or restore the Facility in the event of damage, destruction or taking by eminent domain, providing extensions, additions or improvements to the Facility, or refunding

outstanding Bonds (to the extent that such Bonds shall be subject to earlier redemption). All bonds issued and to be issued under this Indenture are and will be equally secured by the pledge and covenants made therein, except as may otherwise be expressly provided in this Indenture.

General Interest Rate Limitation. Anything herein or in this Indenture to the contrary notwithstanding, the obligations of the Issuer hereunder and under this Indenture shall be subject to the limitation that payments of interest or other amounts hereon shall not be required to the extent that receipt of any such payment by a holder of this bond would be contrary to the provisions of law applicable to such holder of this bond which would limit the maximum rate of interest which may be charged or collected by such holder of this bond.

Redemption of Bonds. (A) General Optional Redemption. The Bonds are subject to redemption on or after June 15, 2028 in whole or in part on any date (but if in part in integral multiples of \$5,000), at the option of the Issuer (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay loan payments due under the Loan Agreement), at the Redemption Price of 100% of unpaid principal amount of the Bonds to be redeemed, plus accrued interest to the date of redemption.

(B) Extraordinary Optional Redemption. The Bonds are subject to redemption prior to maturity, at the option of the Issuer exercised at the direction of the Institution (which option shall be exercised only upon the giving of notice by the Institution of its intention to prepay Loan Payments due under the Loan Agreement), as a whole on any date, upon notice or waiver of notice as provided in this Indenture, at a Redemption Price equal to one hundred percent (100%) of the unpaid principal amount thereof plus accrued interest to the date of redemption, if one or more of the following events shall have occurred:

- (i) The New Facility shall have been damaged or destroyed to such extent that, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee, (A) the New Facility cannot be reasonably restored within a period of one year from the date of such damage or destruction to the condition thereof immediately preceding such damage or destruction, (B) the School is thereby prevented or likely to be prevented from carrying on its normal operation at the New Facility for a period of one year from the date of such damage or destruction, or (C) the restoration cost of the New Facility would exceed the total amount of all insurance proceeds, including any deductible amount, in respect of such damage or destruction; or
- (ii) Title to, or the temporary use of, all or substantially all of the New Facility shall have been taken or condemned by a competent authority which taking or condemnation results, or is likely to result, in the School being thereby prevented or likely to be prevented from carrying on its normal operation at the New Facility for a period of one year from the date of such taking or condemnation, as evidenced by a certificate of an Independent Engineer filed with the Issuer and the Trustee; or

- (iii) As a result of changes in the Constitution of the United States of America or of the State or of legislative or executive action of the State or any political subdivision thereof or of the United States of America or by final decree or judgment of any court after the contest thereof by the Institution and/or the School, the Loan Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed therein or unreasonable burdens or excessive liabilities are imposed upon the Institution and/or the School by reason of the operation of the New Facility.

If the Bonds are to be redeemed in whole as a result of the occurrence of any of the events described above, the Institution shall deliver to the Issuer and the Trustee a certificate of an Authorized Representative of the Institution stating that, as a result of the occurrence of the event giving rise to such redemption, the School has discontinued, or at the earliest practicable date will discontinue, its operation of the New Facility for its intended purposes.

(C) Mandatory Sinking Fund Installment Redemption. The Bonds maturing June 15, 2036 are subject to mandatory sinking fund redemption by the Issuer prior to maturity, in part by lot, at a Redemption Price equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest to the date of redemption, from mandatory Sinking Fund Installments on the dates and in the principal amounts set forth below, provided that the amounts of such Sinking Fund Installments shall be reduced by the credits provided for in this Indenture:

| Sinking Fund Installment Payment Date (June 15) | Sinking Fund Installment |
|--|-------------------------------------|
| 2032 | \$1,315,000 |
| 2033 | 1,365,000 |
| 2034 | 1,420,000 |
| 2035 | 1,475,000 |
| 2036* | 1,535,000 |

* Final Maturity

(D) Mandatory Redemption from Certain Other Amounts. The Bonds shall be redeemed at any time in whole or in part by lot prior to maturity in the event and to the extent:

- (i) in the case of the Bonds only, excess Bond proceeds shall remain after the completion of the Project,
- (ii) in the case of the Bonds but only on a Pro Rata Basis, excess title insurance or property insurance proceeds or condemnation awards shall remain after the application thereof pursuant to the Loan Agreement and this Indenture, or

(iii) in the case of the Bonds but only on a Pro Rata Basis, excess proceeds shall remain after the release or substitution of New Facility Realty or New Facility Personality,

and in each case at a Redemption Price equal to one hundred percent (100%) of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the Redemption Date.

(E) Mandatory Redemption upon Failure to Operate the New Facility for the Approved Project Operations, Material Violation of Material Legal Requirements, False Representation or Failure to Maintain Liability Insurance. The Bonds are subject to mandatory redemption prior to maturity, at the option of the Issuer, as a whole only, in the event (i) the Issuer shall determine that (w) the Institution and/or the School is operating the New Facility or any portion thereof, or is allowing the New Facility or any portion thereof to be operated, not for the Approved Project Operations, (x) the Institution, the School, any Principal of the Institution and/or of the School or any Person that directly or indirectly Controls, is Controlled by or is under common Control with the Institution and/or the School has committed a material violation of a material Legal Requirement, (y) any Conduct Representation is false, misleading or incorrect in any material respect at any date, as if made on such date, or (z) a Required Disclosure Statement delivered to the Issuer under any Project Document is not acceptable to the Issuer acting in its sole discretion, or (ii) the Institution and/or the School shall fail to obtain or maintain the liability insurance with respect to the New Facility required under the Loan Agreement, and, in the case of clause (i) or (ii) above, the Institution and/or the School shall fail to cure any such default or failure within the applicable time periods set forth in the Loan Agreement following the receipt by the Institution and/or the School of written notice of such default or failure from the Issuer and a demand by the Issuer on the Institution and/or the School to cure the same. Any such redemption shall be made upon notice or waiver of notice to the Bondholders as provided in this Indenture, at the Redemption Price of one hundred percent (100%) of the unpaid principal amount of the Bonds, together with interest accrued thereon to the date of redemption.

(F) Mandatory Taxability Redemption. Upon the occurrence of a Determination of Taxability, the Bonds shall be redeemed prior to maturity on any date within one hundred eighty (180) days following such Determination of Taxability, at a Redemption Price equal to the principal thereof, together with accrued interest to the Redemption Date. The Bonds shall be redeemed in whole unless redemption of a portion of the Bonds Outstanding would have the result that interest payable on the Bonds remaining Outstanding after such redemption would not be includable in the gross income of any Holder of a Bond. In such event, the Bonds shall be redeemed in such amount as is deemed necessary in the opinion of Nationally Recognized Bond Counsel to accomplish that result.

(G) Purchase in Lieu of Optional Redemption. In lieu of calling the Bonds for optional redemption, the Bonds are subject to mandatory tender for purchase at the direction of the Issuer, upon the direction of the Institution, in whole or in part (and, if in part, in such manner as determined by the Institution) on any date on or after June 15, 2028, at a Purchase Price equal to the applicable Redemption Price for any optional redemption of such Bonds as described above, plus accrued interest to the purchase date. Purchases of tendered Bonds may be

made without regard to any provision of this Indenture relating to the selection of Bonds in a partial optional redemption. The Bonds purchased pursuant to any mandatory tender(s) are required to be cancelled, and until cancelled, shall not be deemed Outstanding.

Purchases in lieu of an optional redemption are permitted in this Indenture, with the consent of the Issuer, upon the delivery to the Issuer and the Trustee of (i) an opinion of Nationally Recognized Bond Counsel addressed to the Issuer and the Trustee substantially to the effect that (A) such purchases in lieu of optional redemption comply with the provisions of this Indenture and (B) neither such purchases in lieu of an optional redemption nor any transaction directly related thereto will adversely affect the exclusion from gross income of interest on the Bonds for purposes of federal income taxation, and (ii) such other opinions, certificates or documentation as the Issuer may require.

Redemption Procedures. When redemption of any Bonds is requested or required pursuant to this Indenture, the Trustee shall give notice of such redemption in the name of the Issuer, specifying the name of the Series, CUSIP number, Bond numbers, the date of original issue of such Series, the date of mailing of the notice of redemption, maturities, interest rates and principal amounts of the Bonds or portions thereof to be redeemed, the Redemption Date, the Redemption Price, and the place or places where amounts due upon such redemption will be payable (including the name, address and telephone number of a contact person at the Trustee) and specifying the principal amounts of the Bonds or portions thereof to be payable and, if less than all of the Bonds of any maturity are to be redeemed, the numbers of such Bonds or portions thereof to be so redeemed. Such notice shall further state that on such date there shall become due and payable upon each Bond or portion thereof to be redeemed the Redemption Price thereof together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. Such notice may set forth any additional information relating to such redemption. The Trustee, in the name and on behalf of the Issuer, (i) shall mail a copy of such notice by first class mail, postage prepaid, not more than 60 nor less than 30 days prior to the Redemption Date, to the registered owners of any Bonds which are to be redeemed, at their last addresses, if any, appearing upon the registration books, but any defect in such notice shall not affect the validity of the proceedings for the redemption of such Bonds with respect to which proper mailing was effected; and (ii) cause notice of such redemption to be sent to the national information service that disseminates redemption notices. Any notice mailed as described in this paragraph shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice. In the event of a postal strike, the Trustee shall give notice by other appropriate means selected by the Trustee in its discretion. If any Bond shall not be presented for payment of the Redemption Price within 60 days of the Redemption Date, the Trustee shall mail a second notice of redemption to such Holder by first class mail, postage prepaid. Any amounts held by the Trustee due to non-presentment of Bonds for payments on or after any Redemption Date shall be retained by the Trustee for a period of at least one year after the final maturity date of such Bonds. Further, if any Holders of Bonds shall constitute registered depositories, the notice of redemption described in the first sentence of this paragraph shall be mailed to such Holders at least two (2) days prior to the mailing of such notice to all Holders.

If notice of redemption shall have been given as aforesaid, the Bonds of such Series called for redemption shall become due and payable on the Redemption Date, provided,

however, that with respect to any optional redemption of the Bonds of a Series, such notice shall state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds of such Series to be redeemed, and that if such moneys shall not have been so received said notice shall be of no force and effect and the Issuer shall not be required to redeem the Bonds of such Series. In the event that such notice of optional redemption contains such a condition, and such moneys are not so received, the redemption shall not be made and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received. If a notice of optional redemption shall be unconditional, or if the conditions of a conditional notice of optional redemption shall have been satisfied, then upon presentation and surrender of the Bonds of such Series so called for redemption at the place or places of payment, such Series of Bonds shall be redeemed.

Under no circumstances shall the Trustee be required to expend any of its own funds for any purpose for which funds are to be disbursed under this Indenture.

So long as the Securities Depository is affecting book entry transfers of the Bonds, the Trustee shall provide the notices specified above only to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the Beneficial Owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a Beneficial Owner of a Bond (having been mailed notice from the Trustee, the Securities Depository, a Participant or otherwise) to notify the Beneficial Owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

Amendment of Indenture. This Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Issuer and the rights of the holders of the Bonds at any time by the Issuer with the consent of the holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding thereunder. Any such consent shall be conclusive and binding upon each such holder and upon all future holders of each Bond and of any such Bond issued upon the transfer thereof, whether or not notation of such consent is made thereon.

Denominations. The Bonds are issuable in the form of fully registered bonds in the denomination of \$5,000 or any integral multiple of \$5,000 in excess thereof.

Exchange of Bonds. The holder of this bond may surrender the same, at the designated corporate trust office of the Trustee, in exchange for an equal aggregate principal amount of Bonds of any of the Authorized Denominations of the same maturity and maturities and interest rate as this bond or the Bonds so surrendered, subject to the conditions and upon payment of the charges provided in this Indenture. However, the Trustee will not be required to (i) transfer or exchange any Bonds during the period between a Record Date and the following Interest Payment Date or during the period of fifteen (15) days next preceding any day for the selection of Bonds to be redeemed, or (ii) transfer or exchange any Bonds selected, called or being called for redemption in whole or in part.

Transfer of Bonds. This bond is transferable, as provided in this Indenture, only upon the books of the Issuer kept for that purpose at the designated corporate trust office of the Trustee by the registered owner hereof in person, or by his duly authorized attorney-in-fact, upon surrender of this bond (together with a written instrument of transfer in the form appearing on this bond duly executed by the registered owner or his duly authorized attorney-in-fact with a guaranty of the signature thereon by a member of the Stock Exchange Medallion Program or the New York Stock Exchange, Inc. Medallion Signature Program in accordance with Securities and Exchange Commission Rule 17Ad-15, and thereupon a new fully registered Bond in the same aggregate principal amount and maturity and interest rate shall be issued to the transferee in exchange therefor as provided in this Indenture and upon payment of the charges therein prescribed. The Issuer, the Bond Registrar, the Trustee and any Paying Agent may deem and treat the Person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or Redemption Price hereof, the Sinking Fund Installments therefor, and interest due hereon and for all other purposes whatsoever, and all payments made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Issuer, the Institution, the Bond Registrar, the Trustee nor any Paying Agent shall be affected by any notice to the contrary.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Issuer or the Trustee may make a charge sufficient to reimburse it for any expenses and any tax, fee or other governmental charge required to be paid in connection therewith; any such expenses shall be paid by the Institution but any such tax, fee or other governmental charge shall be paid by the Holder requesting such transfer or exchange.

Book Entry System. The Bonds are being issued by means of a book entry system with no physical distribution of bond certificates to be made except as provided in this Indenture. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody or in the custody of its agent. The book entry system will evidence positions held in the Bonds by the Securities Depository's Participants, beneficial ownership of the Bonds in Authorized Denominations being evidenced in the records of such Participants. Transfers of ownership shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. The Issuer and the Trustee will recognize the Securities Depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including (i) payments of principal of, Sinking Fund Installments for, if any, redemption premium, if any, and interest on, this bond, (ii) notices, and (iii) voting. Transfer of principal, Sinking Fund Installments, interest and any redemption premium payments to Participants of the Securities Depository, and transfer of principal, Sinking Fund Installments, interest and any redemption premium payments to Beneficial Owners of the Bonds by Participants of the Securities Depository will be the responsibility of such Participants and other nominees of such Beneficial Owners. The Issuer and the Trustee will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its Participants or persons acting through such Participants. While the Securities Depository nominee is the owner of this bond, notwithstanding the provision hereinabove contained,

payments of principal of, Sinking Fund Installments, if any, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements among the Issuer, the Trustee and the Securities Depository.

Acceleration of Bonds. In certain events, on the conditions, in the manner and with the effect set forth in this Indenture, the principal of all the Bonds and Additional Bonds issued under this Indenture and then Outstanding may be declared and may become due and payable before the stated maturities thereof, together with accrued interest thereon.

Limitation on Bondholder Enforcement Rights. The holder of this bond shall have no right to enforce the provisions of this Indenture, to institute action to enforce the provisions and covenants thereof or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in this Indenture.

Special Obligation of the Issuer. This bond and the issue of which it forms a part are special limited revenue obligations of the Issuer, payable by the Issuer solely out of the loan payments, revenues or other receipts, funds or moneys of the Issuer pledged under this Indenture and from any amounts otherwise available under this Indenture for the payment of the Bonds.

Estoppel Clause. It is hereby certified, recited and declared that all conditions, acts and things required by law and this Indenture to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the issuance of this bond and the issue of which it forms a part are within every debt and other limit prescribed by the laws of the State of New York.

No Personal Liability. Neither the members, directors, officers or agents of the Issuer nor any person executing this bond shall be liable personally or be subject to any personal liability or accountability by reason of the issuance hereof.

Authentication by Trustee. This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under this Indenture until the certificate of authentication hereon shall have been signed by the Trustee.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Build NYC Resource Corporation has caused this bond to be executed in its name by the manual or facsimile signature of its Chairman, Vice Chairman, Executive Director, Deputy Executive Director or General Counsel and its official seal or a facsimile thereof to be hereunto impressed or imprinted hereon and attested by the manual or facsimile signature of its Secretary, Assistant Secretary, Executive Director, Deputy Executive Director or General Counsel, all as of the Bond Date indicated above.

BUILD NYC RESOURCE CORPORATION

By: _____
Authorized Signatory

(SEAL)

ATTEST:

Authorized Signatory

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the issue described in the within-mentioned Indenture.

THE BANK OF NEW YORK MELLON
as Trustee

By: _____
Authorized Signatory

Date of Authentication: June 16, 2021

(FORM OF ASSIGNMENT)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto

(Please print or typewrite name, address and taxpayer identification number of transferee)

the within bond and does hereby irrevocably constitute and appoint _____
Attorney to transfer such bond on the books kept for the registration thereof, with full power of
substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment
must correspond with the name as it
appears on the face of the within bond in
every particular, without alteration or
enlargement or any change whatever.

**SIGNATURE GUARANTEED
MEDALLION GUARANTEED**

Authorized Signature
(Signature Guarantee Program Name)

[Signature Guarantee must be by a
member of the Stock Exchange
Medallion Program or the New York
Stock Exchange, Inc. Signature Program
in accordance with Securities and
Exchange Commission Rule 17Ad-15]

EXHIBIT D

Form of Requisition from the Project Fund

REQUISITION NO.

TO: The Bank of New York Mellon,
as Trustee

FROM: Friends of Academic Leadership CS, LLC

Ladies and Gentlemen:

You are requested to draw from the Project Fund, established by Section 5.01 of
this Indenture of Trust, dated as of June 1, 2021 (the "Indenture"), between Build NYC Resource
Corporation (the "Issuer") and yourself, a check or checks or wire transfer, as applicable, in the
amounts, payable to the order of those persons and for the purpose of paying those costs set forth
on Schedule A attached hereto. All capitalized terms used in this Requisition not otherwise
defined herein shall have the meanings given such terms by this Indenture or by the Loan
Agreement referred to in this Indenture.

I hereby certify that

(i) I am an Authorized Representative of Friends of Academic
Leadership CS, LLC (the "Institution");

(ii) the number of this Requisition is ____;

(i) the items of cost set forth on Schedule A attached hereto are
correct and proper under Section 5.02 of this Indenture and under Section 3.2 of the Loan
Agreement and each such item has been properly paid or incurred as an item of Project
Cost;

(ii) none of the items for which this Requisition is made has formed
the basis for any disbursement heretofore made from the Project Fund;

(iii) the payees and amounts stated in Schedule A attached hereto are
true and correct and each item of cost so stated is due and owing;

(iv) each such item stated in Schedule A attached hereto is a proper
charge against the Project Fund;

(v) each such item in Schedule A attached hereto represents the value
of work actually furnished, or labor or services actually rendered and no item relates to
materials, that are not incorporated into the improvement or deposits toward same;

(vi) each item of cost set forth in Schedule A attached hereto is
consistent in all material respects with the Tax Regulatory Agreement;

(vii) if the payment herein requested is a reimbursement to the Institution for costs or expenses of the Institution incurred by reason of work performed or supervised by officers or employees of the Institution or any Affiliate, such officers or employees were specifically employed for such purpose and the amount to be paid does not exceed the actual cost thereof to the Institution and such costs or expenses will be treated by the Institution on its books as a capital expenditure in conformity with generally accepted accounting principles applied on a consistent basis;

(viii) no portion of the proceeds of the Bond will be applied to reimburse the Institution for Project Costs paid more than sixty (60) days prior to [November 21, 2019], the date the Institution adopted its reimbursement resolution for the Project, except for amounts which do not exceed twenty percent (20%) of the Project Costs financed with the proceeds of the Bonds which were applied to finance certain preliminary expenses with respect to the Project. Preliminary expenses, for purposes of this exception, include architectural, engineering, surveying, soil testing and similar costs incurred prior to the commencement of construction or rehabilitation of the Project, but do not include land acquisition, site preparation and similar costs incident to the commencement of construction or rehabilitation of the Project. No portion of the proceeds of the Bonds will be applied to reimburse the Institution for a cost (other than preliminary expenditures) paid more than eighteen (18) months prior to the date of this requisition or the date the Facility to which the cost relates was placed in service, whichever is later. In no event shall the proceeds of the Bonds be applied to reimburse the Institution for a Project Cost paid more than three (3) years prior to the date of issuance of the Bonds, unless such cost is attributable to a preliminary expenditure, as described above;

(ix) no Determination of Taxability has occurred, and no Event of Default exists and is continuing under this Indenture or the Loan Agreement or any other Security Document nor any condition, event or act which, with notice or lapse of time or both, would constitute such an Event of Default;

(x) I have no knowledge of any vendor's lien, mechanic's lien or security interest which should be satisfied or discharged before the payment herein requested is made or which will not be discharged by such payment or, to the extent that any such costs shall be the subject of a bona fide dispute, for which such costs have not been appropriately bonded or for which a surety or security has not been posted which is at least equal to the amount of such costs;

(xi) each item which payment under this requisition is to be made when added to all other payments previously made from the Project Fund, will not result in less than 95% of the proceeds of the Bonds (exclusive of costs of issuance of the Bonds or any reasonably required reserve) (including any earnings thereon) being used for the acquisition, construction, reconstruction or improvement of land or property that is subject to the allowance for depreciation provided in section 167 of the Code;

(xii) such item of cost for which payment is herein requested is chargeable to the capital account of the Facility for federal income tax purposes, or would

be so chargeable either with an election by the Institution or but for the election of the Institution to deduct the amount of such item; and

(xiii) the representations and warranties made by the Institution in the Security Documents are correct on and as of the date of such disbursement as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date.

Attached to this Requisition is a schedule of or a copy of bills, invoices or other documents evidencing and supporting this Requisition.

Dated: _____

**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC**

By: _____
Authorized Representative

Approved by Owner's Representative

ACADEMIC LEADERSHIP CHARTER SCHOOL

By: _____
Name: _____
Title: _____

SCHEDULE A TO REQUISITION NO. _____

Receipt is hereby acknowledged of a payment in the amount of \$ _____ in connection with the submission of the attached Requisition.

Amount Payee (with address or wire information) Purpose

**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC**

By: _____
Authorized Representative

Date: _____

LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease”) is made as of this 16th day of June, 2021 (the “Effective Date”), by and between **FRIENDS OF ACADEMIC LEADERSHIP CS, LLC**, a limited liability company organized and existing under the laws of the State of New York, whose sole member is the Tenant (as hereinafter defined), having a principal place of business at c/o Academic Leadership Charter School 677 East 141st Street, Bronx, New York 10454 (the “Landlord”) and **ACADEMIC LEADERSHIP CHARTER SCHOOL** (the “Tenant”), a not-for-profit education corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 677 East 141st Street, Bronx, New York 10454 (the “Tenant”). Capitalized terms used herein and not defined shall have the meanings set forth in the Indenture (as hereinafter defined).

WHEREAS, tenant, as lessor has leased to Landlord, as lessee that certain approximately 12,000 square foot lot, piece or parcel of land in the Borough of the Bronx, Block 2301 and Lots 12,13,14, and 15, generally known by the street address 356-62 East 139th Street, Bronx, New York 10454, including any buildings or structures located thereon as more fully described in Exhibit A attached hereto (the “Real Property”).

WHEREAS, the Real Property and the Improvements include an approximately 60,000 square foot seven story building, sub-surface parking garage and rooftop play space to serve as middle school facility to be constructed thereon providing for classrooms, administrative space and other space for Tenant’s use pursuant to plans and specifications developed by the Landlord and Tenant (“Plans and Specifications”) (said building referred to herein as, the “Building”, and, together with the other Improvements and the Real Property, the “Leased Premises”); and

WHEREAS, Landlord, as lessee of the Real Property pursuant to the Ground Lease and owner of the Improvements, including the Building, desires to lease the Leased Premises as lessor hereunder to the Tenant, as lessee hereunder; and

WHEREAS, the Landlord has entered into an Loan Agreement, dated June 1, 2021, by and between the Build NYC Resource Corporation (the “Issuer”) and the Landlord (“Loan Agreement”) whereby the Landlord will borrow the proceed of the Issuer’s \$17,770,000 Revenue Bonds (Academic Leadership Charter School Project), Series 2021 (“Bonds”) issued simultaneously herewith pursuant to an Indenture of Trust dated June 1, 2021 by and between the Issuer and the Bank of New York Mellon, as Trustee (“Trustee”) (the “Indenture”) and the other Project Documents as such term is defined in the Indenture; and

WHEREAS, in connection with the issuance of the Bonds, the Tenant, The Bank of New York Mellon (the “Custodian”) and the Trustee will execute and deliver a custody agreement dated as of June 1, 2020 (the “Custody Agreement”) pursuant to which the Tenant will deliver or cause to be delivered payments of Education Aid due to the Tenant from the Tenant Districts to the Custodian, and the Custodian will in turn make transfers of certain moneys to the Trustee for deposit under the Indenture on account of lease payments owed by the Tenant hereunder to the Landlord pursuant hereto; and

WHEREAS, Landlord desires to lease the Leased Premises to Tenant for the Term (as defined in Section 1 of this Lease) pursuant to the terms this Lease; and

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, Landlord does hereby lease to Tenant the Leased Premises on the terms and conditions set forth below.

1. Term. Landlord does hereby lease to Tenant and Tenant does hereby lease and hire from Landlord the Leased Premises for a term (the “Term”), commencing on the date hereof (the “Commencement Date”) and ending on the date that is Fifteen (15) years after the date hereof, but in no event prior to June 15, 2036 (the “Termination Date”). Provided this Lease is in full force and effect and Tenant is not in default under any of the other terms and conditions of this Lease at the time of notification or commencement. The “Leased Premises” shall include (i) all appurtenances, rights, easements and rights of way related to the Buildings, including, without limitation, any rights, appurtenances or property pursuant to the Plans and Specifications which shall be deemed to form part of the Buildings, together with all of the common elements appurtenant thereto (as defined in Section 5(b)(2) hereof), and (ii) all improvements, fixtures, equipment constructed or installed, or to be constructed or installed, by Landlord in the Buildings (or otherwise) pursuant to the performance of the Construction Work (as defined in Section 2(b) hereto). Landlord and Tenant acknowledge and agree that at all times during the Term Landlord shall have a fee title the Real Property and lease the same to Tenant pursuant to this Lease.

2. Construction and Development Costs.

(a) Performance of the Construction Work.

(i) Landlord shall construct, or cause to be constructed on the Real Property at its sole cost and expense the Building and other Improvements as set forth in the Plans and Specifications (as defined herein) in all material respects (the “Construction Work”), in a good and workman like manner and in accordance with the requirements of all Laws (as defined in Section 5(b)(2)) and shall cause full completion of the Construction Work to occur, free and clear of all Liens no later than June 1, 2023, as same may be extended for unavoidable delay or permitted to be extended (or required to be extended) pursuant to the terms of the Project Documents.

(ii) Landlord shall, at Landlord’s expense, apply for and prosecute, with reasonable diligence, all necessary approvals, permits and licenses required by governmental authorities for the construction, development, use and occupation of the Buildings. Tenant shall cooperate with Landlord in securing the approvals, license and permits required for the construction, development, use and occupation of the Buildings and any other work required to be done by Landlord under this Lease and conforming to the Plans and Specifications.

(iii) Plans and Specifications. Landlord and Tenant have developed the Plans and Specifications in connection with the Construction Work as set forth in the Architectural Plans, prepared by Peter Gisolfi Associates, Architects-Landscape Architects, LLP, dated April 23, 2020.

(iv) Financing of the Construction Work. Costs incurred by Landlord in connection with the Construction Work shall be financed following the execution of this Lease with

equity contributed by the Tenant and a portion of the of the Bond proceeds loaned by the Issuer to the Landlord in accordance with the terms of the Project Documents.

(b) Covenant Against Liens. Except as permitted pursuant to the Project Documents, Landlord shall assure that at all times during the term hereof the Leased Premises shall remain free and clear of any and all Liens whatsoever. If any lien (or a petition to establish such lien) is filed in connection with the Construction Work, Landlord shall discharge such lien (or petition) within ten (10) days thereafter, at Landlord's sole cost and expense, by the payment thereof or by the filing of a bond acceptable to Tenant. Except as expressly permitted in this Lease, if Landlord gives its consent to the making of any Alteration (as hereinafter defined), such consent shall not be deemed to be an agreement or consent by Landlord to subject its interest in the Leased Premises to any liens that may be filed in connection therewith.

3. Uses and Restricted Uses; Compliance with Other Agreements.

(a) Permitted Uses. Tenant may not use or occupy the Leased Premises for any purpose other than the operation of a Charter School unless it obtains the prior written consent of Issuer and an opinion from Issuer's Bond Counsel that determines that no adverse tax impacts will result from such use; provided further that Tenant shall not use or occupy the Leased Premises in any manner that will constitute waste or nuisance or that will violate the certificate of occupancy or other permit or license for the Leased Premises.

(b) Prohibited Uses. Notwithstanding the provisions of Section 3(a), Tenant shall not use any portion of the Leased Premises (whether directly or through any subtenant or licensee) to operate, nor will Tenant permit any permitted sublessee or licensee to operate, any of the following:

- i. private or commercial golf course;
- ii. country club;
- iii. massage parlor;
- iv. hot tub facility;
- v. suntan facility;
- vi. racetrack or other facility used for gambling;
- vii. any store the principal business of which is the sale of alcoholic beverages for consumption off premises;
- viii. any trade or business the predominant part of which consists of the development or holding of intangibles for sale or license; or
- ix. any business the principal activity of which is Farming (as defined in Section 2032A(e)(5)(A) or (B) of the Internal Revenue Code of 1986, as amended);

Tenant shall not rent to others, any portion of the Leased Premises if it would cause the Leased Premises to be treated as Residential Rental Property (as defined in Section 168(e)(2)(A)(i) of the Internal Revenue Code of 1986, as amended). Items (i) through (ix) above are hereinafter referred to as the "Excluded Businesses".

(c) Compliance with the Project Documents. Tenant covenants to cooperate with Landlord to assist discharging Landlord's duties and obligations under the Project Documents and shall cause and assist Landlord to not breach or violate Landlord's representations, warranties and covenants under the Project Documents.

As long as the Project Documents are in effect, Landlord is required to comply with the following provisions:

- i. Landlord shall permit Tenant, the Issuer, Trustee, and any construction consultant to the Tenant, Issuer or Trustee ("Construction Consultant") to enter the Premises;
- ii. Landlord shall allow Tenant, the Issuer and Trustee access to its books and records and allow Tenant, the Issuer and Trustee to inspect, audit and examine same;
- iii. Landlord shall correct any defects (including structural) in the Construction Work or any material departures from the Plans and Specifications not approved by Tenant, the Issuer and Trustee, to the extent such approval was required;
- iv. Landlord shall not permit the performance of any work until the Tenant shall have received copies of the documentation required under the Project Documents;
- v. Landlord shall not consent to a termination or material amendment of the Construction Contract without consent by the Issuer and Trustee;
- vi. Landlord shall simultaneously send to Tenant, the Issuer and Trustee a copy of any notice of default under the Construction Contract that Landlord sends to the general contractor;
- vii. Landlord shall pay and discharge when due all obligations, debts, taxes and liabilities of whatever nature or amount;
- viii. Landlord shall not amend the Plans and Specifications without the consent of Tenant, the Issuer and Trustee;
- ix. Landlord shall disclose to Tenant, the Issuer, Trustee and the Construction Consultant, within ten (10) days of a request by Tenant, Issuer or Trustee, as applicable, the names of all person with whom Landlord has contracted in connection with the Construction Work.

4. Rent.

(a) Rent. From the date hereof until the date of the end of the Term, Tenant shall pay Landlord rent in the amounts equal to the amounts due and payable by the Landlord to the Issuer under the Loan Agreement and the Promissory Note payable at the same times as specified for payments of such amounts in the Loan Agreement (including without limitation, payments thereunder for principal of, interest and sinking fund installments on the Bonds as shown on Schedule I hereto, as well payments thereunder on account of replenishing the Debt Service Reserve Fund and funding the Repair and Replacement Fund Requirement) (the "Rent"). Moneys deposited by the Trustee in the funds and accounts held under the Indenture from time to time on account of Rent payable hereunder shall be credited against Rent payable hereunder as if paid directly by the Tenant to Landlord by operation of the Custody Agreement.

(b) Additional Rent. From the date hereof until the date of the end of the Term, Tenant shall pay Landlord additional rent in the amounts equal to the cost of any extraordinary repair or maintenance of the Leased Premises that Landlord is required to undertake at Tenant's direction (the "Additional Rent"). Moneys on account of Additional Rent shall be payable directly by the Tenant to the Landlord from time to time as determined by Tenant and Landlord.

(c) Payment of Rent, Additional Rent and Other Sums Due. All sums payable by Tenant under this Lease, including but not limited to Rent, Additional Rent or otherwise, shall be paid to Landlord in legal tender of the United States, without setoff, deduction or demand, by direct deposit wire transfer of immediately available funds to any bank account, or to such other party or address as Landlord may designate in writing.

(d) Late Payment. If any installment of Rent payment is not paid ten (10) days or less after such payment is due, then, at the option of Landlord, Tenant shall pay a late charge equal to the greater of five percent (5%) or the late fee penalty percentage payable by the Landlord under its corresponding payment obligation under the Loan Agreement of the amount of such payment to compensate Landlord for expenses and other costs of delinquent payments. This late charge may be assessed without notice, shall be immediately due and payable and shall be in addition to all other rights and remedies available to Landlord under this Lease. This late charge may not be collected on a partial payment and may only be collected one time for each specific late payment.

(e) Net Rent. The Rent payable to Landlord with respect to the Leased Premises shall be absolutely net to Landlord throughout the Term free of all Impositions, Operating Expenses and Other Costs (as such terms are defined in Section 5(d) below) and all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Leased Premises and the construction (except for the Construction Work), ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation of the Leased Premises or with respect to any interest of Landlord in the Leased Premises or this Lease, whether or not specifically identified as the responsibility of Tenant. Tenant's obligation to pay all amounts described in this Section 4(e) shall survive the expiration or earlier termination of the Term.

5. Impositions; Operating Expenses; Insurance Requirements and Other Costs

(a) Impositions.

1. Tenant's Obligation. Tenant will pay when due all Impositions (as defined in Section 5(a)(3) below) and shall provide evidence of such payment to Landlord upon request. If the Term expires on a day other than the last day of a calendar year, then Tenant's liability for Impositions for such calendar year shall be apportioned by multiplying the amount of Impositions for the full calendar year by a fraction, the numerator of which is the number of days during such calendar year falling within the Term, and the denominator of which is three hundred sixty-five (365).

2. Right to Contest Impositions. Tenant, at its sole expense, upon at least ten (10) days prior written notice to Landlord, but without Landlord's consent, shall have the right to contest the amount or validity of any Imposition by diligently conducting in good faith an appropriate legal or administrative proceeding, provided that the following conditions are met: (i) the Impositions are paid or the postponement of payment of Impositions, without penalty, as part of such proceeding is permitted by applicable Law, (ii) the Leased Premises shall not, by reason of such postponement of payment, or the initiation of such proceeding, be subject to forfeiture, sale, penalty or loss, (iii) such proceedings shall not impact or interfere with the use or occupancy of the Leased Premises, (iv) such proceedings shall not affect or interfere with Tenant's continued payment of Rent or Additional Rent; and (v) pursuing the contest of Impositions shall not in any way expose Landlord or the Leased Premises to any criminal or civil liability, penalty or sanction. Tenant further agrees that each such contest shall be promptly and diligently prosecuted to a final conclusion, and Tenant shall pay all judgments, decrees and costs (including any costs incurred by Landlord) in connection with any such contest and shall, promptly after the final determination of such contest, fully pay and discharge the amounts which shall be levied. Tenant shall be entitled to any refund received with respect to Impositions paid by Tenant.

3. "Impositions" means: collectively, taxes, including without limitation, any present or future real estate taxes, all taxes or other impositions that are in the nature of or in substitution for real estate taxes, vault and/or public space rentals, business district or arena taxes, business or occupation, single business, transaction, privilege, franchise, capital stock, excise, or profits taxes, as well as special user fees, license fees, permits, improvement bonds, levies, improvement district charges, governmental charges, rates, and assessments, general, special, ordinary or extraordinary, foreseen and unforeseen, and all fees and assessments that are imposed upon Landlord, Tenant or the Leased Premises, fixtures, machinery, equipment or systems used in connection with the Leased Premises or the business being operated on the Leased Premises, including without limitation, taxes in the nature of a sales, use, gross receipts or other tax or levy on the rents payable by Tenant.

Notwithstanding the foregoing, the parties hereto recognize that as of the date hereof the Tenant is not subject to pay real property taxes as a result of its use of the Premises.

4. 501(c)(3) Status: The Tenant represents that (i) is an organization described in Section 501(c)(3) of the Code, which is exempt from federal income taxation pursuant

to Section 501(a) of the Code (an “Exempt Organization”) and is not a “private foundation,” as such term is defined under Section 509(a) of the Code, (ii) has received a letter or other notification from the Internal Revenue Service to that effect, and such letter or other notification has not been modified, limited or revoked, (iii) is in compliance with all terms, conditions and limitations, if any, contained in such letter or other notification, and the facts and circumstances which form the basis of such letter or other notification as represented to the Internal Revenue Service continue to exist, and (iv) is exempt from federal income taxes under Section 501(a) of the Code.

(b) Operating Expenses.

1. Tenant’s Obligation. Tenant will pay directly to the providers of such services all costs and expenses attributable to or incurred in connection, with the ownership, use, occupancy, maintenance and repair of the Leased Premises (collectively “Operating Expenses”) including without limitation (i) all energy sources for the Leased Premises; (ii) all water, sewer and trash disposal services; (iii) all maintenance, repair, and trash disposal services; (iii) all maintenance, repair, replacement and rebuilding of the Leased Premises including without limitation, all mechanical, electrical, HVAC, telecommunications and security systems within the Leased Premises, and all structural and nonstructural components of the Leased Premises both interior and exterior; (iv) all landscaping, maintenance and repair of the Leased Premises; (v) all insurance premiums relating to the Leased Premises; (vi) the costs and expenses of all capital improvements or repairs required to maintain the Leased Premises in good order and repair or required by any Governmental Authority having jurisdiction over the Leased Premises.

2. Compliance with Laws. Tenant shall, at Tenant’s expense, comply with all present and future laws (including, without limitation, the Americans with Disabilities Act), ordinances (including without limitation, zoning ordinances and land use requirements), regulations, orders, proffers, recommendations, decisions, decrees, permits and rules now or hereafter promulgated (including, without limitation, those made by any public or private agency or owner’s association), as any of the same may be amended from time to time (collectively, “Laws”) concerning Tenant, the use, occupancy and condition of the Leased Premises and the business being conducted thereon, and all machinery, equipment, furnishings, fixtures and improvements on or used in connection with the Leased Premises. If any such Law requires an occupancy or use permit or license for the Leased Premises or the operation of the business conducted therein, then Tenant shall obtain and keep current such permit or license at Tenant’s expense. Tenant shall deliver to Landlord, promptly upon request, all licenses, permits and other certificates evidencing compliance of Tenant and the Leased Premises with Laws. If any such Law requires any modification to the Leased Premises, Tenant shall perform such alterations, at its sole cost and expense. Use of the Leased Premises is subject to all Laws and any covenants, conditions, easements and restrictions and all restrictive or regulatory agreements imposed on Tenant or the Leased Premises by the Issuer and Trustee (collectively, the “Regulatory Agreements”) and Tenant shall, at Tenant’s expense, comply fully with all such covenants, conditions, easements, proffers and restrictions and shall perform and be liable for any obligations imposed on Landlord under such covenants, conditions, easements and restrictions as if Tenant were the owner of the Leased Premises (regardless of whether or not such obligation was to be performed by any prior owner of the Leased Premises). Tenant shall continuously, diligently and actively conduct its business in the Leased Premises in a first-class and reputable manner.

(c) Insurance.

Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease the insurance required under the Loan Agreement at a minimum the following coverages:

1. “All-Risk Coverage”, Boiler & Machinery and Business Interruption Coverage. Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease, “all-risk” coverage insurance in the customary form in New York for improvements of similar character, on all Improvements now or after this date located on the Leased Premises in amounts not less than the full insurable value of Improvements. Such coverage shall include (1) All Risks of Direct Physical Loss, including full coverage for flood; (2) Demolition and increased cost of construction; (3) Replacement Cost; and (4) Business Interruption Coverage and Extra Expenses, provided, however, that Landlord shall provide all such insurance coverage while the Construction Work is being performed.

2. General Liability. Tenant will, at its sole expense, obtain and keep in force during the Term of this Lease comprehensive general liability insurance.

3. Construction. During the course of any construction or repair of the Improvements other than the Construction Work, Tenant will obtain and keep in force builder’s completed value risk insurance against “all risks of physical loss,” during construction of the Improvements.

4. Other Matters. All insurance required in this Lease and all renewals thereof will be issued by companies authorized to transact business in New York, and otherwise acceptable to Landlord and shall name Landlord and Tenant and other parties as appropriate as insureds as their interests may appear. Tenant shall deliver to Landlord, concurrently with Tenant’s execution of this Lease and at least annually thereafter, (i) certificates (including Acord Form 28) evidencing that all such insurance coverage required pursuant to this Section is in full force and effect, and (ii) receipts evidencing payment therefor (and, upon request, copies of all required insurance policies, including endorsements and declarations). Neither the issuance of any insurance policy required under this Lease nor the minimum limits specified herein shall be deemed to limit or restrict in any way Tenant’s liability arising under or out of this Lease. Upon request, Tenant shall deliver to Landlord, Issuer and Trustee policies or insurance certificates as required hereunder.

5. Compliance with Insurance Requirements. Notwithstanding anything contained herein to the contrary, Tenant will, at its sole cost and expense, obtain and keep in force all insurance policies as required pursuant to the Project Documents. Notwithstanding anything contained herein to the contrary, Tenant shall procure and maintain insurance Landlord is required to procure and maintain pursuant to the Loan Agreement in conformity with all requirements of the Loan Agreement related to such insurance.

(d) Other Costs. Tenant shall be solely responsible for all costs, fees and expenses imposed upon Landlord under the Project Documents (collectively, “Other Costs”) to the

extent not payable from interest payments thereon or available reserves established for such costs, fees or expense, as applicable.

6. Assignment and Subleases. Tenant may not, at any time voluntarily or by operation of law assign, transfer, mortgage or hypothecate its estate and interest in this Lease, or sublet all or any part(s) of the Leased Premises, without all of the following:

- i. Landlord's prior consent, which consent shall not be unreasonably withheld, conditioned or delayed;
- ii. the consent of the Issuer and Trustee; and
- iii. An opinion from Issuer's Bond Counsel determining that the transfer of interest does not violate terms of the Project Documents.
- iv. An opinion letter from Issuer's Bond Counsel determining that the transfer of interest will not have an adverse impact on the tax-exempt status of the Bonds.

7. Maintenance And Repair; Alterations

(a) Tenant's Obligations. Tenant will, at its sole cost and expense, maintain the Improvements and make repairs, restorations, and replacements to the Improvements, including, without limitation, heating, ventilating, air conditioning, mechanical, electrical, elevator, if any, and plumbing systems, structural roof, walls, and foundations, and the fixtures and appurtenances to the Improvements as and when needed to preserve them in good working order and condition and tenantable, regardless of whether the repairs, restorations, and replacements are ordinary or extraordinary foreseeable or unforeseeable, capital or noncapital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations and replacements will be in quality and class equal or better than the original work or installations and shall be done in accordance with all Laws and the requirements of this Lease. Notwithstanding anything contained herein to the contrary, Tenant shall promptly make (i) any repairs, restorations or replacements, the failure of which to make would create or allow to exist a life/safety issue with respect to the Leased Premises or its occupants or visitors, including but not limited to, a threat of personal injury to any occupants or visitors or continuing physical injury to the Leased Premises and (ii) any Life/Safety Repairs required by the Issuer and Trustee (collectively "Life/Safety Repairs").

(b) No Obligation of Landlord. After completion of the Construction Work, Landlord shall not be required to perform or pay for any maintenance, or make or pay for any repairs, replacements or improvements of any kind whatsoever to the Leased Premises or the Improvements or any part thereof during the Term of this Lease, regardless of the cause necessitating any such maintenance, repairs, replacements or improvements.

(c) Condition of Leased Premises. Tenant acknowledges and confirms that it and its representatives will make a physical examination of the Leased Premises and the legal title thereto prior after completion of the Construction Work and prior to taking possession of the Leased

Premises. Tenant agrees and confirms that, following completion of the Construction Work, (i) neither Landlord, nor any agent, employee or representative of Landlord will make and does not make herein any representation or warranty as to the condition of all or any portion of the Leased Premises (including, without limitation, subsoil condition); (ii) Tenant is relying solely on Tenant's own examination and investigation as to all of the same; (iii) Landlord has made no warranty express or implied concerning the use or fitness of the Leased Premises, for any particular purpose; and (iv) the Leased Premises are being leased to Tenant strictly in an "as-is" condition except for completion of the Construction Work. It is understood and agreed that Landlord does not warrant or undertake that Tenant shall be able to obtain a permit under any zoning or other ordinance or regulation for its use of the Leased Premises as permitted hereby.

(d) Alterations.

(i) Except for the Construction Work and subject to the Project Documents, Landlord is under no obligation to make any alterations, decorations, additions, improvements, demolitions or other changes (collectively, "Alterations") in or to the Leased Premises. All Alterations in or to the Leased Premises shall be made in a good, workmanlike and first-class manner, in accordance with such reasonable terms and conditions as Landlord may impose, and shall otherwise be made in accordance with all applicable Laws. If any lien (or a petition to establish such lien) is filed in connection with any Alteration, Tenant shall discharge such lien (or petition) within ten (10) days thereafter, at Tenant's sole cost and expense, by the payment thereof or by the filing of a bond acceptable to Landlord. If Landlord gives its consent to the making of any Alteration, such consent shall not be deemed to be an agreement or consent by Landlord to subject its interest in the Leased Premises to any liens that may be filed in connection therewith.

(ii) All Alterations to the Leased Premises during the Term shall be the property of Landlord but shall be leased hereunder to Tenant and shall remain upon and be surrendered with the Leased Premises as a part thereof at the expiration or earlier termination of the Term; provided, however, that Tenant shall remove all Alterations and other items in the Leased Premises that Landlord designates in writing for removal, and repair any damage caused by such removal. Notwithstanding anything to the contrary contained herein, Tenant shall have the right to claim, during the Term, all federal and state income tax benefits associated with Alterations to the Leased Premises performed at Tenant's sole cost and expense during the Term, if and to the extent permitted under applicable Laws; provided, however, that in no event shall Landlord have any liability to Tenant whatsoever in connection with any inability by Tenant to obtain any such benefits.

8. Surrender. Tenant will surrender the Leased Premises to Landlord in good order and condition and in accordance with the terms and provisions of this Lease.

9. Hazardous Materials

(a) Tenant shall not cause or permit any Hazardous Materials (as hereinafter defined) to be generated, used, released, stored or disposed of in or about the Property, provided that Tenant may use, store and dispose of reasonable quantities of Hazardous Materials (as defined

on Schedule 1 hereto) commonly used in retail or related business operations as may be reasonably necessary for Tenant to conduct such operations, or residential use, provided such Hazardous Materials are used, stored and disposed of in accordance with all Environmental Laws (as defined on Schedule 1 hereto) and commercially reasonable standards. At the expiration or earlier termination of this Lease, Tenant shall surrender the Leased Premises to Landlord free of Hazardous Materials and in compliance with all Environmental Laws.

(b) Tenant shall give Landlord immediate verbal, and follow-up within seventy-two (72) hours with a written notice, of any actual or threatened Environmental Default. An “Environmental Default” means any of the following: a violation of an Environmental Law; a release, spill, discharge or detection of a Hazardous Material on or from the Leased Premises (regardless of whether or not a reporting requirement exists) or an environmental condition requiring responsive action. Upon any Environmental Default, in addition to all other rights available to Landlord under this Lease, at law or in equity, Landlord shall have the right but not the obligation, at its option, (i) to require Tenant, at Tenant’s sole cost and expense, to cure such Environmental Default, in accordance with all Environmental Laws, and to the satisfaction of Landlord, in which event Landlord shall have the right to supervise and approve any actions taken by Tenant to address the Environmental Default, or (ii) to perform, at Tenant’s sole cost and expense, any lawful action necessary to address the same, in which event Tenant shall pay the costs thereof to Landlord as Additional Rent.

(c) Landlord, Issuer and Trustee, at Tenant’s sole cost and expense, shall have the right, but not the obligation, to conduct periodic audits of the Leased Premises (including without limitation, the air, soil, surface water and groundwater at or near the Leased Premises) and Tenant’s compliance with Environmental Laws with respect thereto. If Landlord reasonably determines that remediation or removal, alterations, improvements or replacements of equipment on the Leased Premises are necessary in connection with any such compliance with all Environmental Laws, Landlord shall have the right, but not the obligation, (i) to require Tenant, at Tenant’s expense, to perform the same or (ii) to perform the same, at Tenant’s sole cost and expense, in which event Tenant shall pay the costs thereof to Landlord as Additional Rent. If Issuer, Trustee or any governmental agency shall require testing at or near the Leased Premises and Landlord incurs expenses in complying with such requirement, then Tenant shall pay to Landlord the reasonable costs therefor as Additional Rent.

(d) As a material consideration for Landlord’s willingness to enter into this Lease, Tenant hereby waives, and releases Landlord and its affiliates, partners, officers, directors, members, trustees, employees, agents and lenders from any and all claims for damage, injury or loss (including without limitation, claims for the interruption of or loss to business) which relate to any Environmental Default, occurring subsequent to the completion of the Construction Work. Promptly upon request, Tenant shall execute from time to time affidavits, representations and similar documents concerning Tenant’s best knowledge and belief regarding the presence of Hazardous Materials at the Leased Premises. Notwithstanding anything contained in this Lease to the contrary, Tenant is authorized to take action required to make any repairs, restorations or replacements required by the Issuer and Trustee, the failure of which to make would create or allow to exist a life/safety and/or health/habitability issue with respect to the Leased Premises or its

occupants or visitors, including but not limited to, a threat of personal injury to any occupants or visitors or continuing physical injury to the Leased Premises.

(e) Tenant’s obligations pursuant to this Section 9(e) shall survive the expiration or earlier termination of this Lease. If any required actions by Tenant pursuant to this Section 9(e) continue beyond the expiration or earlier termination of this Lease, Tenant shall pay to Landlord an amount equal to the Rent and Additional Rent that would have been payable under this Lease for the period of such required actions in the absence of the expiration or earlier termination of this Lease.

10. Indemnification; Waiver; Limitation of Liability

(a) Indemnification.

1. Tenant will indemnify and defend Landlord and its affiliates and their respective agents, employees, members, officers and directors (collectively, “Indemnitees”) against, and hold the Indemnitees harmless from, any and all demands, claims, causes of action, fines, penalties, damages (including consequential damages), losses, liabilities, judgments, and expenses (including, without limitation, attorneys’ fees and court costs) incurred in connection with or arising from: (i) the use, condition, operation, maintenance, repair, alteration and occupancy of the Leased Premises; (ii) any activity, work, or thing done, or permitted or suffered by Tenant in or about the Leased Premises; (iii) any acts, omissions, or negligence of Tenant or any person claiming under Tenant, or the contractors, agents, employees, invitees, or visitors of Tenant or any such person; (iv) any breach, violation, or nonperformance by Tenant or any person claiming under Tenant or the employees, agents, contractors, invitees, or visitors of Tenant or any such person of any term, covenant, or provision of this Lease or any Law, ordinance, or governmental requirement of any kind; (v) any injury or damage to the person, property, or business of Tenant, its employees, agents, contractors, invitees, visitors, or any other person entering upon the Leased Premises or (vi) contamination of the Property or the ground waters thereunder or the Leased Premises, any discharge of toxic or hazardous sewage or waste materials from the Property or the Leased Premises into any septic facility or sewer system, any Environmental Law or release or existence of Hazardous Materials on the Property or the Leased Premises (irrespective of whether there has occurred a violation thereof). If any action or proceeding is brought against Landlord, its employees, or agents by reason of any such claim, Tenant, upon notice from Landlord, will defend the claim at Tenant’s expense with counsel reasonably satisfactory to Landlord.

2. Limitation of Liability. Tenant’s sole recourse against Landlord, and any successor to the interest of Landlord in the Leased Premises arising under this Lease or in any way relating to the Leased Premises, is limited to the interest of Landlord, and any such successor, in the Leased Premises. Landlord, its affiliates, partners, officers, directors, members, trustees, employees, agents and lenders shall have no liability for and shall not assume any liability or responsibility with respect to the conduct or operation of the business to be conducted on the Leased Premises and shall have no liability for any claim of loss of business or interruption of operations, or any consequential damages or indirect losses whatsoever. Any goods, furnishings, fixtures, property or personal effects placed or stored in or about the Leased Premises shall be at the sole

risk of Tenant, and Landlord, its affiliates, employees and agents shall not be responsible or liable for such property.

11. Default; Remedies

(a) Events of Default. At the option of Landlord, the occurrence of the following event shall constitute an event of default by Tenant ("Event of Default"):

1. if Tenant does not pay in full when due any charge or payment herein reserved, included, or agreed to be treated or collected as Rent, Additional Rent or any other charge, expense, or cost herein agreed to be paid by Tenant;

2. if Tenant fails to perform or observe any non-monetary covenant or condition of this Lease not otherwise specifically described in this Section 11(a), which failure continues for thirty (30) days after Landlord provides written notice thereof to Tenant ("Cure Period"), which Cure Period may extend beyond thirty (30) days with the approval of Landlord whose approval shall not be unreasonably withheld as long as (i) Tenant is diligently pursuing to cure such failure and (ii) the method to correct such failure will take longer than the Cure Period; provided, however, that such Cure Period shall not be applicable if, in Landlord's sole and absolute discretion, such failure raises a life/safety issue with respect to the Leased Premises or its occupants or visitors, including but not limited to, a threat of personal injury or continuing physical injury to the Leased Premises;

3. a final, non-appealable judgment for the payment of money not fully covered by insurance is rendered against Tenant, and the same has not been discharged, vacated, bonded, or stayed within sixty (60) days after rendering of the same;

4. any failure to maintain the insurance required pursuant to Section 4(c);

5. any breach by Tenant of Section 3(b) Prohibited Uses of this Lease;

or
6. a breach of Landlord under the Project Documents that results from any act or omission by, and solely within the control of, Tenant.

(b) Remedies. Subject to the Project Documents, if any one or more Events of Default occurs and is not cured as provided above, Landlord shall have the right, at its sole option, to terminate this Lease. Notwithstanding anything to the contrary, while the Bonds are outstanding, termination of the lease shall require consent of Beneficial Owners of a majority of the Outstanding Bonds. In addition, with or without terminating this Lease, Landlord may re-enter, terminate Tenant's right of possession and take possession of the Leased Premises consent of Beneficial Owners of a majority of the Outstanding Bonds. The provisions of this Article shall operate as a notice to quit, and Tenant hereby waives any other notice to quit or notice of Landlord's intention to re-enter the Leased Premises or terminate this Lease. If necessary, Landlord may proceed to recover possession of the Leased Premises under applicable Laws, or by such other proceedings, including re-entry and possession, as may be applicable. If Landlord elects to terminate this Lease

and/or elects to terminate Tenant's right of possession, everything contained in this Lease on the part of Landlord to be done and performed shall cease without prejudice, however, to Tenant's liability for all Rent, Additional Rent and other sums specified herein. Whether or not this Lease and/or Tenant's right of possession is terminated or any suit is instituted, Tenant shall be liable for any Rent, Additional Rent, damages or other sum which may be due or sustained prior to such default, and for all costs, fees and expenses (including, but not limited to, attorneys' fees and costs, brokerage fees, expenses incurred in enforcing any of Tenant's obligations under the Lease or in placing the Leased Premises in first-class rentable condition, advertising expenses, and any concessions or allowances granted by Landlord) incurred by Landlord in pursuit of its remedies hereunder and/or in recovering possession of the Leased Premises and renting the Leased Premises to others from time to time plus other actual or consequential damages suffered or incurred by Landlord on account of Tenant's default (including, but not limited to, late fees or other charges incurred by Landlord under any mortgage). Tenant also shall be liable for additional damages which at Landlord's election shall be either one or a combination of the following: (a) an amount equal to the Rent and Additional Rent due or which would have become due from the date of Tenant's default through the remainder of the Term, less the amount of rental, if any, which Landlord receives during such period from others to whom the Leased Premises may be rented (other than any Additional Rent received by Landlord as a result of any failure of such other person to perform any of its obligations to Landlord), which amount shall be computed and payable in monthly installments, in advance, on the first day of each calendar month following Tenant's default and continuing until the date on which the Term would have expired but for Tenant's default, it being understood that separate suits may be brought from time to time to collect any such damages for any month(s) (and any such separate suit shall not in any manner prejudice the right of Landlord to collect any damages for any subsequent month(s)), or Landlord may defer initiating any such suit until after the expiration of the Term (in which event such deferral shall not be construed as a waiver of Landlord's rights as set forth herein and Landlord's cause of action shall be deemed not to have accrued until the expiration of the Term), and it being further understood that if Landlord elects to bring suits from time to time prior to reletting the Leased Premises, Landlord shall be entitled to its full damages through the date of the award of damages without regard to any Rent, Additional Rent or other sums that are or may be projected to be received by Landlord upon reletting of the Leased Premises; or (b) an amount equal to the present value of the sum of (i) the amount by which (A) all Rent, Additional Rent and other sums due or which would be due and payable under this Lease as of the date of Tenant's default through the end of the scheduled Term exceeds (B) the fair market rental value of the Leased Premises over the same Period as determined by Landlord, plus (ii) all expenses (including broker and attorneys' fees) and value of all vacancy periods projected by Landlord to be incurred in connection with the reletting of the Leased Premises. The present value shall be calculated using a discount factor equal to the yield of the United States Treasury Note or Bill, as appropriate, having a maturity period approximately commensurate to the remainder of the Term, and such resulting amount shall be payable to Landlord in a lump sum on demand, it being understood that upon payment of such liquidated and agreed final damages, Tenant shall be released from further liability for payment of Rent under this Lease with respect to the period after the date of such payment. Landlord's determination as to the fair market value and projected vacancy period shall be presumptively correct and Tenant shall have the burden of proving otherwise by clear and convincing evidence. Landlord may bring suit to collect any such damages at any time after an Event of Default shall have occurred. In the event Landlord relets the Leased Premises for a term extending beyond the scheduled expiration of the Term, it is understood that Tenant will not be

entitled to apply any Rent, Additional Rent or other sums generated or projected to be generated in the period extending beyond the scheduled expiration of the Term (collectively, the “Extra Rent”) against Landlord’s damages. Similarly, in proving the amount that would be received by Landlord upon a reletting of the Leased Premises as set forth in clause (b)(ii) above, Tenant shall not take into account the Extra Rent. The provisions contained in this Section shall be in addition to, and shall not prevent the enforcement of, any claim Landlord may have against Tenant for anticipatory breach of this Lease. Nothing herein shall be construed to affect or prejudice Landlord’s right to prove, and claim in full, unpaid Rent and Additional Rent accrued prior to termination of this Lease. If Landlord is entitled, or Tenant is required, pursuant to any provision hereof to take any action upon the termination of the Term, then Landlord shall be entitled, and Tenant shall be required, to take such action also upon the termination of Tenant’s right of possession.

12. Financial Covenants.

(a) ***Long-Term Debt Service Coverage Ratio.***

(i) Beginning with the Fiscal Year ended June 30, 2022, the Landlord and the Tenant covenant, on a consolidated basis, to maintain Long-Term Debt Service Coverage Ratio greater than 1.10 to 1.0x, and provide a copy of such calculation to the Trustee at the time of delivery of the annual audited financial statements. If the Long-Term Debt Service Coverage Ratio indicates that the Long-Term Debt Service Coverage Ratio of the Landlord and the Tenant, on a consolidated basis, for such previous Fiscal Year is less than 1.10 to 1.0 but equal to or greater than 1.0 to 1.0, the Landlord and/or the Tenant, shall, within thirty (30) days of the date of such calculation, provide the Trustee with a detailed written explanation from an Authorized Representative of the Landlord and/or the Tenant stating the reasons for the Landlord and/or the Tenant’s failure to achieve the required Long-Term Debt Service Coverage Ratio and their plan for achieving such Long-Term Debt Service Coverage Ratio by the end of the next Fiscal Year. In the event that the Landlord and/or the Tenant are unable to comply with the above Long-Term Debt Service Coverage Ratio requirement within 12 months of the initial non-compliance, then the Majority Holders (as such term is defined in the Indenture) shall have the right to direct the Trustee to require the Landlord and/or the Tenant to engage, at the Landlord and/or the Tenant expense, a Management Consultant acceptable to the Majority Holders, which shall deliver a written report within 60 days of engagement to the Trustee containing recommendations concerning either institution’s:

- A. operations;
- B. financing practices and activities, including Short-Term Indebtedness, Sublease financing, and investment activities;
- C. management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution’s financial condition;
- D. governance and administration practices; and

E. other factors relevant to maintaining such compliance.

(ii) Upon submission of the Management Consultant’s report, the Landlord and/or the Tenant are required to arrange for payment of the amount owed to the Management Consultant and issue a written certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the Landlord and/or the Tenant to comply with any reasonable recommendation of the Management Consultant with respect to items (A) through (E) above.

(iii) Notwithstanding anything to the contrary contained herein, the Landlord and/or the Tenant’s failure to maintain a Debt Service Coverage Ratio of at least 1.0 to 1.0 shall constitute an Event of Default hereunder.

(b) ***Minimum Days’ Cash on Hand.***

(i) The Landlord and the Tenant covenant that they will maintain on a consolidated basis, beginning with the Fiscal Year Ending June 30, 2022, and for so long as any Bonds remain outstanding, maintain cumulative Available Cash Balance sufficient to meet 60 days of Operating Expenses to be tested as of June 30 of each year based on the results of the annual audit and will deliver Days’ Cash on Hand reports to the Trustee at the time of delivery of the annual audited financial statements.

(ii) If on any Liquidity Testing Date, beginning with the Fiscal Year ending June 30, 2022, Days Cash on Hand is below the Days Cash on Hand Requirement, the Landlord and the Tenant shall retain on an annual basis a minimum 50% of the Excess Net Revenues until such time as it is in compliance. Operating Expenses for purposes calculating Days Cash on Hand will include interest payments on Long-Term Indebtedness. If the Landlord and the Tenant, on a consolidated basis, is in violation of the minimum Days Cash on Hand Requirement, then the Majority Holders shall have the right to direct the Trustee to require the Landlord and/or the Tenant to engage a Management Consultant acceptable to the Majority Holders at the Landlord and the Tenant’s expense, which shall deliver a written report within 60 days of engagement to the Trustee and the Institutions containing recommendations concerning either the Landlord and the Tenant’s:

- A. operations;
- B. financing practices and activities, including Short-Term Indebtedness, Sublease financing, and investment activities;
- C. management practices, including the use of consultants, budgeting practices, and ongoing financial systems and monitoring of such Institution’s financial condition;
- D. governance and administration practices; and

E. other factors relevant to maintaining such compliance.

(iii) Upon submission of the Management Consultant's report, the Landlord and/or the Tenant are required to arrange for payment of the amount owed to the Management Consultant and issue a written certificate to the Trustee indicating their acceptance or rejection of all or any material portion of the recommendations of the consultant within 30 days of receiving the report of the Management Consultant. The Majority Holders shall have the right to require the Landlord and/or the Tenant to comply with any reasonable recommendation of the Management Consultant with respect to items (A) through (E) above.

(iv) Notwithstanding anything to the contrary contained herein, the failure to satisfy any of the covenants contained in Paragraph 12 shall not constitute or be deemed to constitute an Event of Default hereunder, provided the recommendations of the Management Consultant are being followed as certified in writing by the Management Consultant at least bi-monthly during the period of the consultancy and provided to the Trustee.

(c) **Limitations on Indebtedness.** The Landlord and/or the Tenant agree not to incur or become liable for any Indebtedness except as follows (collectively, "Permitted Indebtedness"):

(i) The Landlord and the Tenant may incur Indebtedness in the form of the issuance by the Authority of Additional Bonds to complete the Project or incur other Additional Parity Indebtedness from time to time pursuant to the terms and conditions of the Indenture. The Landlord and/or the Tenant shall be precluded from incurring Additional Indebtedness that is senior to the lien of the Mortgage on the Mortgaged Property and the obligations of the Landlord under the Loan Agreement and the Tenant under hereunder. The Landlord and the Tenant may incur Additional Parity Indebtedness only upon providing to the Trustee a certificate of an Authorized Representative of the Landlord and the Tenant, accompanied by a confirming Independent Financial Consultant's Certificate, to the effect that (i) the requirements of Section 2.07 of the Indenture have been met, but this clause (i) applies only if the other Indebtedness takes the form of Additional Bonds, and (ii) either:

(A) the Net Income Available for Debt Service is equal to or greater than 110% of the combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility as determined in the most recent audited financial statements of the Landlord/Tenant and (ii) the Net Income Available for Debt Service is equal to or greater than 110% of combined Annual Debt Service for outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility proposed to be incurred as determined in the most recent audited financial statements of the Landlord and/or the Tenant; or

(B) the projected Net Income Available for Debt Service of the Landlord and/or the Tenant is not less than 120% of the combined projected Annual

Debt Service for currently outstanding Long-Term Indebtedness related to the Facility and the Long-Term Indebtedness related to the facility proposed to be incurred for three consecutive fiscal years after the earlier of (i) the date the new facility is placed into service or (ii) the year provision for payment of debt service with capitalized interest is expended.

(ii) The Landlord and/or the Tenant may incur up to \$500,000 of Indebtedness pursuant to installment sales, conditional sales and Capital Subleases in connection with the financing of new or replacement Equipment used to service the New Facility; provided however, any such Indebtedness is secured only by the Equipment acquired by the Landlord and the Tenant with the proceeds of such Indebtedness.

(iii) The Landlord and/or the Tenant may incur unsecured Indebtedness or Indebtedness subordinate to the Series 2021 Bonds for working capital purposes of the Landlord and/or the Tenant up to \$500,000 in the aggregate outstanding at any one time. The Tenant and the Landlord shall notify any continuing disclosure agent and the Trustee of the incurrence of any such unsecured or subordinate Indebtedness in excess of \$50,000 in the aggregate outstanding at any one time.

13. Condemnation.

(a) **Total Taking.** Notwithstanding anything to the contrary contained in the Project Documents If the entire Leased Premises or occupancy thereof shall be permanently taken or condemned by any governmental or quasi-governmental authority for any public or quasi-public use or purpose or sold under threat of such a taking or condemnation (a "Total Taking"), then this Lease shall terminate on the date that title to the Leased Premises vests in such authority, and Rent shall be apportioned as of such date. If less than the entire Leased Premises or occupancy thereof is permanently condemned, but such partial condemnation, even after restoration, would in Landlord's reasonable judgment be substantially and materially adverse to the business operations of Tenant as being conducted at or from the Leased Premises as of the Lease Commencement Date, then Tenant shall have the right to elect to terminate this Lease upon written notice thereof to Landlord within ten (10) business days after Tenant receives notice of such taking (together with a Total Taking, a "Termination Taking"). This Lease shall terminate on the date that title to the Leased Premises vests in such authority, and Rent shall be apportioned as of such date. A condemnation shall be deemed to be permanent if lasting for a period in excess of twelve (12) consecutive calendar months.

(b) **Partial Taking.** If less than the entire Leased Premises or occupancy thereof is permanently condemned and such partial condemnation would not, even after restoration, in Landlord's reasonable judgment be substantially and materially adverse to the business operations of Tenant as being conducted at or from the Leased Premises as of the Lease Commencement Date (a "Partial Taking"), then this Lease shall remain in full force and effect, there shall be no abatement of Rent or Additional Rent and Tenant shall comply with the provisions of Section 13(b) of this Lease with respect to restoration.

(c) **Temporary Taking.** If all or any portion of the Leased Premises is condemned for a period of twelve (12) consecutive calendar months or less, the Lease shall remain

in full force and effect and there shall be no abatement of Rent or Additional Rent notwithstanding such condemnation. The amount of any Award paid on account of a temporary taking, net of Landlord's reasonable expenses in obtaining the same, for such temporary taking allocable to the Term, shall be paid to Tenant.

(d) Awards. In the event of a Termination Taking or Partial Taking, all awards, damages and other compensation on account of the Leased Premises and/or Landlord's Improvements shall belong to Landlord, and Tenant assigns to Landlord all rights to such Awards. Tenant shall not make any claim against Landlord or such authority for any portion of such Awards attributable to damage to the Leased Premises, value of the unexpired portion of the Term or any renewal thereof, loss of profits or goodwill, leasehold improvements, consequential damages to the Leased Premises not taken, or severance damages. Nothing contained herein, however, shall prevent Tenant from pursuing a separate claim against the authority for relocation expenses and for the value of furnishings, equipment and trade fixtures installed in the Leased Premises at Tenant's expense following the Lease Commencement Date and which Tenant is entitled, pursuant to this Lease, to remove at the expiration or earlier termination of the Term, provided that such claim shall in no way diminish the Awards payable to or recoverable by Landlord in connection with such taking.

(e) Notwithstanding anything to the contrary contained in this Lease, section of this Lease shall be subject to the Project Documents.

14. Casualty. If the Improvements are totally or partially damaged or destroyed, whether due to casualty, Partial Taking or otherwise, then promptly after such damage or destruction, Tenant shall repair, rebuild or restore all damaged Improvements on or about the Property so as to make the Leased Premises at least equal in value to the Leased Premises existing immediately prior to such damage or destruction. All such repair, rebuilding or restoration shall be at Tenant's expense; provided, however that, to the extent necessary to effect such repair, rebuilding or restoration, Landlord will make available to Tenant the net proceeds of any fire or other casualty insurance paid to Landlord or the net proceeds of any award from a Partial Taking after deduction of any costs incurred in connection with the collection thereof, including reasonable attorneys' fees. Payment to Tenant of such net proceeds shall be made in accordance with reasonable procedures customarily required in connection with construction loans. Tenant shall deliver to Landlord for Landlord's approval the Plans and Specifications, as well as a schedule setting forth the estimated monthly draws for such work. Upon Landlord's approval thereof, Tenant will begin such repairs, rebuilding or restoration and will prosecute the same to completion with diligence and in accordance with the terms and conditions of this Lease. Landlord and its architects and engineers shall have the right, at Tenant's expense, to inspect the Leased Premises from time to time during such repair, rebuilding and restoration. In no event, however, shall Landlord have any liability whatsoever for any defects in the design or construction, or the compliance of the Plans and Specifications with Laws. In no event shall any damage or destruction allow Tenant to abate the payment of Rent or Additional Rent or terminate this Lease. Notwithstanding anything to the contrary contained in this Lease, this section shall be subject to the Project Documents.

15. Estoppel Certificate. Landlord covenants and agrees that if the Trustee sends written notice to Landlord requesting an estoppel certificate, then within ten (10) days of delivery of such

request Landlord shall deliver to the Trustee written confirmation (A) that this Lease is in full force and effect, (B) of the date to which Rent has been paid, (C) that this Lease has not been amended or modified; (D) that no written notice declaring a default has been given by any party thereunder which remains uncured, or if a written notice of default has been given, specifying such default; and (E) of other terms, covenants and conditions which the Trustee shall reasonably require.

16. Quiet Enjoyment. Landlord covenants that it has the right to enter into this Lease, and that if Tenant shall perform timely all of its obligations hereunder, then, subject to the provisions of this Lease, Tenant shall during the Term peaceably and quietly occupy and enjoy the full possession of the Leased Premises without hindrance by Landlord or any party claiming through or under Landlord.

17. Notices. Any notice, exercise of option or election, communication, request or other document or demand required, permitted or desired under this Lease (collectively, "Notices") shall be in writing and shall be given to Tenant by Federal Express or other similar national, reputable overnight courier which provides proof of delivery; registered or certified mail, return receipt requested, postage prepaid; or in person delivery, provided written proof of receipt thereof is obtained, in each such case, at the addresses listed below:

To Landlord: Friends of Academic Leadership CS LLC
c/o Academic Leadership Charter School
677 East 141st Street
Bronx, New York 10454
Attention: Norma Hurwitz, Executive Director

With a copy to: Harris Beach PLLC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.

To Tenant: Academic Leadership Charter School
677 East 141st Street
Bronx, New York 10454
Attention: Norma Hurwitz, Executive Director

With a copy to: Harris Beach PLLC
333 Earle Ovington Blvd.
Uniondale, New York 11553
Attention: Andrew Komaromi, Esq.

To Issuer: Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: General Counsel

with a copy to:

Build NYC Resource Corporation
One Liberty Plaza
165 Broadway
New York, New York 10006
Attention: Executive Director

If to the Trustee, to

The Bank of New York Mellon
101 Barclay Street Street, Floor 7W
New York, New York 10286
Attention: Corporate Trust Administration

18. Conflicts and Additional Obligations. To the extent of a conflict between this Lease and the Project Documents during the term of the Bonds, the Project Documents shall control. Tenant's obligations under this Lease may be increased or modified by Landlord, at any time, to avoid a default under or to cause compliance with the Project Documents.

19. Non-Merger. Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or Tenant's estate created hereunder with the leasehold estate held by Landlord or any part thereof by reason of the fact that the same person may acquire, own or hold, directly or indirectly, (x) this Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Improvements), and (y) the fee estate held by Landlord of the Leased Premises or any part thereof, unless and until all persons, including any assignee of Tenant, having an interest in (1) this Lease or Tenant's leasehold estate created hereunder, and (2) the fee estate held by Landlord or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

20. Recordation. Landlord and Tenant shall execute a memorandum of this Lease in recordable form which, at Tenant's option, may be recorded.

21. No Waiver. No waiver of any condition or agreement in this Lease by Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Term of this Lease will be deemed an acceptance of a surrender of the Leased Premises, and no agreement to accept such surrender will be valid unless in writing signed by Landlord.

22. Entire Agreement. This Lease with the exhibits and schedules annexed hereto, if any, contains the entire agreement between Landlord and Tenant, and any executory agreement hereafter made between Landlord and Tenant shall be ineffective to change, modify, waive, release, discharge, terminate, or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing and signed by the party against which enforcement of the change, modification, waiver, release, discharge, termination or the effecting of the abandonment is sought.

23. Invalidity. If any term, covenant, condition or provision of this Lease or the application thereof to any circumstance or to any person, firm or corporation shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Lease, or the application thereof to any circumstances or to any person, firm or corporation other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this Lease shall be valid and shall be enforceable to the fullest extent permitted by law.

24. Successors and Assigns. The agreements, terms, covenants and conditions herein shall bind and inure to the benefit of Landlord and Tenant and their successors and permitted assigns.

25. Governing Law. This Lease shall be governed by the laws of the State of New York (without regard to the conflicts of laws rules thereof).

26. Counterparts. This Lease may be executed in any number of counterparts, and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts taken together shall constitute one instrument.

27. Non-Recourse. Tenant's sole recourse against Landlord, and any successor to the interest of Landlord in the Leased Premises arising hereunder or in any way related to or in connection with the Leased Premises, is limited to the interest of Landlord, and any such successor, in the Leased Premises.

28. Assignment to Trustee and Subordination. Notwithstanding anything to the contrary herein, Landlord shall have the right and obligation and shall simultaneously herewith assign this Lease to the Trustee and Tenant hereby consents to such assignment so long as the Bonds are Outstanding. This lease shall be subject and subordinate to the Mortgage (as such term is defined in the Indenture).

[Signature on the following page]

IN WITNESS WHEREOF, the undersigned has hereunto affixed his signature as of the date and year first written above.

FRIENDS OF ACADEMIC LEADERSHIP CS, LLC, a New York limited liability company

By: **Academic Leadership Charter School**, a
New York not-for-profit corporation its sole
member

By: _____
Name: Norma Hurwitz
Title: Executive Director

ACADEMIC LEADERSHIP CHARTER SCHOOL, a New York not-for-profit corporation

By: _____
Name: Norma Hurwitz
Title: Executive Director

SCHEDULE 1

DEFINITIONS

Additional Parity Indebtedness means any Additional Indebtedness intended to be secured on a parity basis as to payment with the Series 2021 Bonds and sharing in a parity lien of the Mortgage on the Mortgaged Property and the terms of which, including, without limitation, principal and interest payment dates, shall be satisfactory to the Trustee.

Annual Debt Service means, for any Fiscal Year, and subject to the provisions of the Indenture, the Loan Agreement and this Lease, the amount required to pay the interest and principal for Long-Term Indebtedness (including Sublease rentals under capitalized subleases) in such Fiscal Year, excluding "funded interest" from the proceeds of the Series 2021 Bonds and excluding interest earnings on the Debt Service Reserve Fund, as such term is defined in the Indenture, at the then current interest rate per annum, to be determined on the assumption that the Series 2021 Bonds will be retired at the stated maturities thereon except those Series 2021 Bonds which are required by the Indenture to be redeemed prior to their stated maturities from sinking fund payments of Landlord is required, by the Loan Agreement and the Indenture, to make for such purpose, which Series 2021 Bonds will be assumed to be retired on their respective scheduled mandatory redemption dates.

Available Cash Balance means the sum of the Tenant's cash, investments and unused and available line(s) of credit available for short term operating purposes.

Balloon Debt means Long-Term Indebtedness where the principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due (or payable in respect of any required purchase of such Long-Term Indebtedness by such Person on demand) in any Fiscal Year either are equal to at least 25% of the total principal of (any premium, if any) and interest and other debt service charges on such Long-Term Indebtedness or exceed by more than 50% the greatest amount of principal of (and premium, if any) and interest and other debt service charges on such Long-Term Indebtedness due in any preceding or succeeding Fiscal Year.

Construction Contract means that certain construction contract for the construction of the Building.

Ratio Evaluation Date means June 30 of each Fiscal Year, commencing on June 30, 2021.

Days Cash on Hand Requirement means, for any Fiscal Year of the Tenant, the number of days determined by dividing the product of Available Cash Balance and three hundred sixty-five (365) by Operating Expenses for such Fiscal Year.

Environmental Law means any present and future Laws, permits and other requirements or guidelines of governmental authorities applicable to the Leased Premises and relating to the environment and environmental conditions, industrial hygiene, public health or safety, or to any Hazardous Material (including, without limitation, CERCLA, 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq., the Hazardous

Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 1101 et seq., the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq., and any so-called “Super Fund” or “Super Lien” law, any Law requiring the filing of reports and notices relating to Hazardous Materials, environmental laws administered by the Environmental Protection Agency, and any similar state and local Laws.

Excess Net Revenues means Gross Revenues, less Operating Expenses, annual debt service on Long-Term Indebtedness, payments on any capital Subleases, and any Debt Service Reserve Fund deficiency payments.

Fiscal Year shall mean, with respect to the Tenant, a year of 365 or 366 days, as the case may be, commencing on July 1 and ending on June 30 of the next calendar year, or such other fiscal year of similar length used by the Tenant for accounting purposes as to which such Tenant shall have given prior written notice thereof to the Issuer and the Trustee at least ninety (90) days prior to the commencement thereof.

Gross Revenues means, regardless of the source, all revenues, rentals, fees, third-party payments, receipts, donations, contributions or other income of the Tenant, to the extent permitted thereby and by law, including accounts receivables or other rights to receive such revenues, including, without limitation, Education Aid, proceeds derived from insurance, condemnation proceeds, accounts, contract rights and other rights and assets, whether now or hereafter owned, held or possessed by an Institution; and all gifts, grants, bequests and contributions (including income and profits therefrom) to the extent permitted by the terms thereof and by law.

Hazardous Materials means (i) asbestos and any asbestos containing material, (ii) any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other applicable Law as a “hazardous substance,” “hazardous material,” “hazardous waste,” “infectious waste,” “toxic substance,” “toxic pollutant” or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, or Toxicity Characteristic Leaching Procedure (TCLP) toxicity, and (iii) any petroleum product, cleaning solvents, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear or by-product material), medical waste, chlorofluorocarbon, lead or lead-based product, and any other substance whose presence could be detrimental to the Leased Premises or hazardous to health or the environment.

Improvements means:

- i. all buildings, structures, foundations, related facilities, fixtures and other improvements existing erected or situated on the Leased Premises;
- ii. any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Leased Premises throughout the term of this Lease (including any improvements or demolitions made as part of the Construction Work); and

- iii. all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

Liquidity Testing Date means June 30 of each year commencing with the fiscal year ended June 30, 2022, based on the results of audited financial statements of the most recently completed Fiscal Year.

Long-Term Debt Service Coverage Ratio means, for any Fiscal Year or other specified period, the ratio determined by dividing the Net Income Available for Debt Service by the debt service due in that Fiscal Year. When calculating the Long-Term Debt Coverage Ratio, capitalized interest shall be counted as income.

Long-Term Indebtedness means any Additional Indebtedness of the Landlord and the Tenant other than Short-Term Indebtedness and indebtedness subordinate to the Series 2021 Bonds.

Management Consultant means an Independent professional firm or corporation hired by an Institution, and acceptable to the Majority Holders, pursuant to Section 12(a) or Section 12(b) hereof.

Maximum Annual Debt Service means, as of any date of calculation, the highest principal and interest payment requirements with respect to all Long-Term Indebtedness of the Landlord outstanding for any succeeding Fiscal Year, and, for such purposes, any one or more of the following rules shall apply:

(a) **Committed Take Out** - if such Person has received a binding commitment, within normal commercial practice, from any bank, savings and loan association, insurance company, or similar institution to refund or purchase any of its Long-Term Indebtedness at its maturity (or, if due on demand, or payable in respect of any required purchase of such Long-Term Indebtedness by such Person, at any date on which demand may be made), then the portion of the Long-Term Indebtedness committed to be refunded or purchased shall be excluded from such calculation and the principal of (and premium, if any) and interest on the Long-Term Indebtedness incurred for such refunding or purchase that would be due in the Fiscal Year for which the calculation is being made, if incurred at the maturity or purchase date of the Long-Term Indebtedness to be refunded or purchased, shall be added;

(a) **Pro Forma Refunding** - in the case of Balloon Debt, if the Person obligated thereon shall deliver to the Trustee a certificate of a nationally recognized firm of investment bankers or financial consultants dated within 90 days prior to the date of delivery of such certificate to the Trustee stating that financing at a stated interest rate (which shall not be less than the *Bond Buyer* Revenue Bond Index or, if the *Bond Buyer* Revenue Bond Index is unavailable, a comparable index chosen by the Trustee) with a stated maturity not greater than 35 years is reasonably attainable (and such opinion is reasonably acceptable to the Trustee) on the date of such certificate to refund any of such Balloon Debt, then for the purpose of calculating what future annual debt service requirements will be, any installment of principal of (and premium, if any) and interest and other debt service charges on such Balloon Debt that could so be refunded shall be excluded from such

calculation and the principal plus interest of the refunding debt shall be evenly allocated over the life of the refunding debt with equal principal payments plus interest deemed due each year;

(c) *Prefunded Payments* - principal of (and premium, if any) and interest and other debt service charges on debt, or portions thereof, shall not be included in the computation of Maximum Annual Debt Service for any Fiscal Year for which such principal, premium, interest, or other debt service charges are payable from funds irrevocably deposited or set aside in trust for the payment thereof at the time of such calculations (including without limitation capitalized interest and accrued interest so deposited or set aside in trust or escrowed with the Trustee, or any Person approved by the Trustee);

Net Income Available for Debt Service means, for any period of determination thereof, Gross Revenues of the Landlord or the Tenant for such period, plus all interest earnings on moneys held in the Debt Service Reserve Fund (Tax-Exempt) established under the Indenture, minus the Landlord's or the Tenant's total Operating Expenses for such period but excluding (i) any profits or losses which would be regarded as extraordinary items under GAAP, (ii) cancellation of indebtedness income, (iii) proceeds of Bonds or any other Indebtedness permitted by the Loan Agreement, (iv) proceeds of insurance policies, other than the policies for business interruption insurance, maintained by or for the benefit of the Landlord or the Tenant, the proceeds of any sale, transfer or other disposition of the New Facility or any other of the Landlord's assets by the Landlord, and any condemnation or any other damage award received by or owing to the Landlord and (v) interest expense.

Operating Expenses means fees and expenses of the Landlord or the Tenant, including maintenance, repair expenses, utility expenses, real estate taxes, insurance premiums, administrative and legal expenses, miscellaneous operating expenses, advertising and promotion costs, payroll expenses (including taxes), the cost of material and supplies used for current operations of an Institution, the cost of vehicles, equipment Subleases and service contracts, taxes upon the operations of the Landlord or the Tenant not otherwise mentioned herein, charges for the accumulation of appropriate reserves for current expenses not annually recurrent, but which may be reasonably be expected to be incurred in accordance with GAAP, all in such amounts as reasonably determined by the Landlord or the Tenant; provided however, "Operating Expenses" shall not include (i) those expenses which are actually paid from any revenues of the Landlord or the Tenant which are not Gross Revenues, (ii) spending for items accounted for as capital expenditures under GAAP, (iii) expenses or other amounts paid into and from the Repair and Replacement Fund as such term is defined in the Indenture, or (iv) replenishments of the Debt Service Reserve Fund.

Outstanding, when used with reference to a Bond or Bonds, as of any particular date, shall mean all Bonds which have been issued, executed, authenticated and delivered under the Indenture, except:

(i) Bonds cancelled by the Trustee because of payment or redemption prior to maturity or surrendered to the Trustee under the Indenture for cancellation

(ii) any Bond (or portion of a Bond) for the payment or redemption of which, in accordance with Article X of the Indenture, there has been separately set aside and held in the Redemption Account of the Bond Fund, either:

(A) moneys, and/or

(B) Defeasance Obligations in such principal amounts, of such maturities, bearing such interest and otherwise having such terms and qualifications as shall be necessary to provide moneys, in an amount sufficient to effect payment of the principal or applicable Redemption Price of such Bond, together with accrued interest on such Bond to the payment or Redemption Date, which payment or Redemption Date shall be specified in irrevocable instructions given to the Trustee to apply such moneys and/or Defeasance Obligations to such payment on the date so specified, provided, that, if such Bond or portion thereof is to be redeemed, notice of such redemption shall have been given as provided in the Indenture or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been authenticated and delivered under Article III of the Indenture, provided, however, that in determining whether the Holders of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under the Indenture or the Loan Agreement, Bonds owned by the Landlord or the Tenant shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded. Bonds which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is the Landlord or the Tenant.

EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

SCHEDULE I

Moneys deposited by the Trustee in the funds and accounts held under the Indenture from time to time on account of Rent payable hereunder shall be credited against Rent payable hereunder as if paid directly by the Tenant to Landlord by operation of the Custody Agreement.

(Basic Rent Schedule)

EX-A

EX-A

**MORTGAGE AND SECURITY AGREEMENT
(BUILDING LOAN)**

From

FRIENDS OF ACADEMIC LEADERSHIP CS, LLC,
a not-for-profit corporation organized and existing under the laws
of the State of New York, having its principal office at 677 East
141st Street, Bronx, New York 10454, as Debtor

To

BUILD NYC RESOURCE CORPORATION,
a local development corporation created pursuant to the Not-for-Profit Corporation Law
of the State of New York at the direction of the Mayor of The City of New York, having
its principal office at One Liberty Plaza, 165 Broadway, New York, New York 10006,
as Issuer and Mortgagee

And

THE BANK OF NEW YORK MELLON,
a banking corporation duly organized and existing under the laws
of the State of New York, having a corporate trust office at 101
Barclay Street, Floor 7W, New York, New York 10286, together
with any successor Trustee under the Indenture of Trust referred to
herein, as Trustee and Mortgagee

Dated as of June 1, 2021

\$17,770,000
Build NYC Resource Corporation
Revenue Bonds,
(Academic Leadership Charter School Project) Series 2021

Affecting that real property described in the Description of Land in the appendices to this
Mortgage and Security Agreement (Building Loan)
in the County of Bronx, The City of New York, State of New York

| | | | | |
|--|--------------------------|--------|----------|--------------------|
| Record and Return to: | Address | County | Block(s) | Lots |
| Bryant Rabbino LLP | 356-62 East 139th Street | Bronx | 2301 | 12, 13, 14, and 15 |
| 220 E. 42 nd Street, Suite 3301 | Bronx, New York 10454 | | | |
| New York, New York 10017 | | | | |
| Attention: B. Seth Bryant, Esq. | | | | |

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**MORTGAGE AND SECURITY AGREEMENT
(Building Loan)**

This **MORTGAGE AND SECURITY AGREEMENT (Building Loan)** made and entered into as of the date set forth on the cover page hereof (together with any and all amendments hereof and supplements hereto made in accordance herewith and with the Indenture, this “**Mortgage**”) from that entity identified on the cover page hereof as the Debtor to the Issuer and the Trustee as the Mortgagee (capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Indenture or in the Loan Agreement, as applicable and as referred to below):

WITNESSETH:

WHEREAS, the Issuer is authorized pursuant to Section 1411(a) of the Not-for-Profit Corporation Law of the State of New York, as amended, and its Articles of Organization and Operating Agreement, (i) to promote community and economic development and the creation of jobs in the non-profit and for-profit sectors for the citizens of The City of New York (the “City”) by developing and providing programs for not-for-profit institutions, manufacturing and industrial businesses and other entities to access tax-exempt and taxable financing for their eligible projects; (ii) to issue and sell one or more series or classes of bonds, notes and other obligations through private placement, negotiated underwriting or competitive underwriting to finance such activities above, on a secured or unsecured basis; and (iii) to undertake other projects within the City that are appropriate functions for a non-profit local development corporation for the purpose of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, carrying on scientific research for the purpose of aiding the City by attracting new industry to the City or by encouraging the development of or retention of an industry in the City, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the Issuer intends to issue the Initial Bonds pursuant to the Bond Resolution and the Indenture; and

WHEREAS, to facilitate the Project and the issuance by the Issuer of the Initial Bonds, (i) the Issuer will make the Loan and lend the proceeds of the Initial Bonds, in the original principal amount of the Initial Bonds, to the Debtor pursuant to the terms of that certain Loan Agreement, dated as of even date herewith, between the Issuer and the Debtor (as the same may be amended or supplemented, the “**Loan Agreement**”), and (ii) the Debtor will execute the Promissory Note in favor of the Issuer and the Trustee dated the Closing Date (as the same may be amended or supplemented, the “**Promissory Note**”) to evidence the Debtor’s obligation under the Loan Agreement to repay the Loan; and

WHEREAS, the proceeds derived from the issuance of the Initial Bonds are to be used to finance a portion of the cost of the Project relating to the Facility (the “**Facility**”) owned by the Debtor and located at the Facility Address; and

WHEREAS, in order to induce the Issuer to issue, and the initial owners to purchase, the Initial Bonds, the Debtor is entering into this Mortgage; and

WHEREAS, pursuant to the Assignment of Mortgage, the Issuer intends to assign to the Trustee all of its right, title and interest as Mortgagee under this Mortgage; and

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure:

(i) payment of the Secured Principal Amount of the Initial Bonds and the indebtedness represented thereby, the Purchase Price, if applicable, and the redemption premium, if any, and interest on the Initial Bonds according to their tenor and effect and the performance and observance by the Issuer of all the covenants expressed or implied in the Initial Bonds and in the Security Documents, and

(ii) payment, performance and observance of all obligations of the Debtor under the Security Documents including this Mortgage,

whether now arising or hereafter arising, direct or indirect, absolute or contingent, joint or several, due or to become due, liquidated or unliquidated, secured or unsecured, original, renewed or extended, whether arising directly or acquired from others (all such indebtedness and obligations described in clauses (i) and (ii) above being collectively referred to herein as the “Obligations”), provided, however, that the maximum principal amount secured hereby shall not exceed the Secured Principal Amount, the Debtor does hereby grant, bargain, sell, convey, transfer, mortgage, grant a security interest in, pledge and assign to the Issuer and the Trustee as Mortgagee, and their respective assigns forever, its right, title and interest in and to the following (the “**Mortgaged Property**”):

GRANTING CLAUSES

I

The Facility Realty together with the tenements, hereditaments, servitudes, appurtenances, estate, rights, privileges, liberties, licenses, royalties, mineral, oil and gas rights, water, water rights, reversions, remainders and immunities thereunto belonging or appertaining which may from time to time be owned or leased by the Debtor, including all the right, title and interest of the Debtor in and to all streets, ways, alleys, roads, waters, water courses, water rights, waterways, passages, sewer rights and public places adjoining the Facility Realty and all easements and rights-of-way, public or private, and gores of land, now or hereafter used in connection therewith, together with all land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Facility Realty to the center line thereof, now or hereafter used in connection with the Facility Realty.

II

The Facility Personalty together with all fixtures, equipment, machinery, apparatus, appliances, fittings, chattels and articles of personal property of every kind and nature useable in connection with the operation of the improvements now or hereafter located at the Facility Realty, and all building materials and supplies of any nature whatsoever whether now or owned or hereafter acquired, now or hereafter attached to, or used or usable in connection with any present or future operation or occupancy of the Facility and owned by the Debtor or in which

the Debtor has or shall have an interest and all renewals and replacements thereof and additions and accessions thereto, including without limitation all partitions, elevators, lifts, steam and hot water boilers, heating and air conditioning equipment, lighting and power plants, engines, motors, compressors, ducts, coal, oil and gas burning apparatus, pipes, pumps, plumbing, radiators, sinks, bath tubs, water closets, refrigerators, gas and electrical fixtures, communications apparatus, stoves, ranges, shades, screens, awnings, vacuum cleaning system, and sprinkler system or other fire prevention or extinguishing apparatus and materials, all of which shall be deemed to be, remain and form a part of the Facility and are covered by the lien of this Mortgage; excluding, however, the Institution's Property (as defined in Section 3.4(d) of the Loan Agreement) from the lien of this Mortgage.

III

All property insurance proceeds, awards, payments and other compensation payments, including interest thereon, and the right to receive the same, which are heretofore or hereafter made with respect to the Facility as a result of or in lieu of any taking by eminent domain (including any transfer made in lieu of the exercise of said right), the alteration of the grade of any street, or any other damage or injury to or decrease in the value of the Facility or the occurrence of any Loss Event (as defined in Section 6.1 of the Loan Agreement), to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by the Mortgagee, and of the reasonable attorneys' fees, costs and disbursements incurred by the Mortgagee in connection with the collection of such award or payment, subject to the terms of the Indenture and the Loan Agreement as to the application of all such amounts so received.

IV

All right, title and interest of the Debtor in and to (a) any and all present and future leases of space in any building(s) on or to be erected upon the Facility Realty; (b) any and all present and future subleases of space in any building(s) on or to be erected upon the Facility Realty; (c) all rents, issues and profits payable under any such leases and subleases; (d) any contracts for the sale of all or any portion of the Facility Realty or any building(s) or portions thereof on or to be erected upon the Facility Realty ("Sale Contracts"); and (e) any interest of the Debtor in contracts, agreements or other arrangements with architects, engineers and other professionals responsible for the design and supervision of the Project Work. Nothing in this paragraph is intended to constitute the consent of the Issuer, the Trustee or the Bondholders to any such leases, subleases or Sale Contracts.

V

All right, title and interest of the Debtor in all proceeds of any unearned premiums on any insurance policies (other than liability insurance policies) concerning the Facility, including, without limitation, the right to receive and apply the proceeds of any property insurance, judgments or settlements made in lieu thereof, for damages to the Facility, subject, however, to the terms of the Indenture and the Loan Agreement.

VI

All right, title and interest of the Debtor in all construction contracts, payment bonds, performance bonds, surety bonds, warranties, guarantees, maintenance, repair or replacement agreements and other contractual obligations of any contractor, subcontractor, surety, guarantor, manufacturer, dealer, laborer, supplier or materialman made with respect to the Facility or any part thereof.

VII

All the right, in the name and on behalf of the Debtor, to appear in and defend any action or proceeding brought with respect to the Facility and to commence any action or proceeding to protect the interest of the Mortgagee in the Facility.

VIII

Any and all air rights, development rights, zoning rights or other similar rights or interests which benefit or are appurtenant to the Facility and any proceeds arising therefrom.

IX

All agreements (other than the Loan Agreement) and/or contracts now or hereafter entered into by the Debtor for the Project Work or any part thereof, and all permits, licenses, bonds, plans and specifications relative to the Project.

X

Any and all further estate, right, title, interest, property, claim and demand whatsoever of the Debtor in and to any of the above.

XI

Any and all other property of every kind and nature from time to time which was heretofore or hereafter is by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder, by the Debtor or by any other Person with or without the consent of the Debtor, to the Mortgagee which is hereby authorized to receive any and all such property at any time and at all times to hold and apply the same subject to the terms hereof.

XII

All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned or agreed or intended so to be, to the Mortgagee and their successors and to them and their assigns forever;

THIS MORTGAGE secures the payment, performance and observance of the Obligations and shall continue in full force and effect until the Obligations shall be paid and satisfied in full or otherwise provided for in accordance with their respective terms.

THIS IS A BUILDING LOAN MORTGAGE, the proceeds of which are advanced and to be advanced pursuant to the terms of a Building Loan Agreement dated as of even date herewith by and among the parties hereto.

Notwithstanding anything contained herein to the contrary, the maximum amount of Obligations secured by this Mortgage at execution or which under any contingency may become secured hereby at any time hereafter is the Secured Principal Amount plus interest thereon, plus all amounts actually expended by the Mortgagee after default by the Debtor which constitute payment of (i) taxes, charges or assessments imposed by law upon the Mortgaged Property; (ii) premiums on insurance policies covering the Mortgaged Property; (iii) expenses incurred in protecting or upholding the lien of this Mortgage, including, but not limited to the expenses of any litigation to prosecute or defend the rights and lien created by this Mortgage; (iv) expenses incurred in protecting the collateral encumbered by this Mortgage; or (v) any amount, cost or charge to which the Mortgagee becomes subrogated upon payment, whether under recognized principles of law or equity, or under express statutory authority.

DEBTOR HEREBY represents, warrants, covenants and agrees with the Mortgagee as set forth below:

ARTICLE I

DEFINITIONS; CONSTRUCTION

Section 1.1. Certain Definitions. The following terms shall have the respective meanings in this Mortgage, except as the context otherwise requires:

Assignment of Mortgage shall mean the Mortgage and Security Agreement (Building Loan) relating to the Facility, dated as of even date herewith, from the Issuer to the Trustee, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith and with the Indenture.

Bond Resolution shall mean the resolution of the Issuer adopted on July 16, 2019 authorizing the Project and the issuance of the Bonds.

Bonds shall mean the Issuer's \$17,770,000 Revenue Bonds (2020 Academic Leadership Charter School Project) authorized, issued, executed, authenticated and delivered under the Indenture.

Business Day shall have the meaning assigned to that term in the Indenture.

Closing Date shall mean June 16, 2021, the date of the initial issuance and delivery of the Bonds.

Debtor shall mean Friends of Academic Leadership CS, LLC, a limited liability company organized and existing under the laws of the State of New York, and its successors and assigns; provided, however, that nothing contained in this definition shall be deemed to limit or modify the obligations of the Debtor under Section 8.9 or 8.20 of the Loan Agreement.

Facility shall mean, collectively, the Facility Personalty and the Facility Realty.

Facility Address shall mean 356-62 East 139th Street, Bronx, New York 10454.

Facility Personalty shall mean those items of machinery, equipment and other items of personalty the acquisition and/or the installation of which is to be financed in whole or in part with the proceeds of the Bonds for installation or use at the Facility Realty as part of the Project pursuant to Section 3.2 of the Loan Agreement and described in Exhibit B — "Description of Facility Personalty", together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor, and all parts, additions and accessories incorporated therein or affixed thereto. Facility Personalty shall, in accordance with the provisions of Sections 3.5 and 6.4 of the Loan Agreement, include all property substituted for or replacing items of Facility Personalty and exclude all items of Facility Personalty so substituted for or replaced, and further exclude all items of Facility Personalty removed as provided in Section 3.5 of the Loan Agreement.

Facility Realty shall mean, collectively, the Land and the Improvements.

Holders shall have the meaning assigned to that term in the Indenture.

Improvements shall mean (i) all buildings, structures, foundations, related facilities, fixtures and other improvements existing on the Closing Date and erected or situated on the Land; (ii) any other buildings, structures, foundations, related facilities, fixtures and other improvements constructed or erected on the Land (including any improvements or demolitions made as part of the Project Work pursuant to Section 3.2 of the Loan Agreement); and (iii) all replacements, improvements, additions, extensions, substitutions, restorations and repairs to any of the foregoing.

Indenture shall mean the Indenture of Trust, dated as of even date herewith, between the Issuer and the Trustee, and includes any and all amendments thereof and supplements thereto made in accordance therewith.

Land shall mean that certain lot, piece or parcel of land in Bronx County, Block 2301 and Lots 12, 13, 14, and 15, generally known by the street address 356-62 East 139th Street, Bronx, New York 10454, all as more particularly described in Exhibit A — “Description of the Land”, together with all easements, rights and interests now or hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 10.11(c) of the Loan Agreement.

Loan Agreement shall have the meaning assigned to that term in the recitals.

Loan shall have the meaning assigned to that term on the Loan Agreement.

Majority Holders shall have the meaning assigned to that term in the Indenture.

Mortgage shall have the meaning assigned to that term in the recitals.

Obligations shall have the meaning specified in Section 3.2 hereof.

Opinion of Counsel shall have the meaning assigned to that term in the Indenture.

Outstanding shall have the meaning assigned to that term in the Indenture.

Permitted Encumbrances shall have the meaning assigned to that term in the Indenture.

Person shall have the meaning assigned to that term in the Indenture.

Project shall have the meaning assigned to that term in the Loan Agreement.

Project Work shall have the meaning assigned to that term in the Loan Agreement.

Promissory Note shall have the meaning assigned to that term in the Loan Agreement.

Purchase Price shall have the meaning assigned to that term in the Indenture.

Sale Contracts shall have the meaning assigned to that term in the Granting Clauses.

Secured Principal Amount shall mean \$17,770,000.

Security Documents shall have the meaning assigned to that term in the Indenture.

State shall have the meaning assigned to that term in the Indenture.

Section 1.2. Construction. In this Mortgage, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Mortgage, refer to this Mortgage, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the Closing Date.

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa.

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships and limited liability partnerships), trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the texts of the several Articles and Sections of this Mortgage, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Mortgage, nor shall they affect its meaning, construction or effect.

(e) Unless the context indicates otherwise, references to designated “Exhibits,” “Articles,” “Sections,” “Subsections,” “clauses” and other subdivisions are to the designated Exhibits, Articles, Sections, Subsections, clauses and other subdivisions of or to this Mortgage.

(f) The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.

(g) The word “will” shall be construed to have the same meaning and effect as the word “shall”.

(h) Any definition of or reference to any agreement, instrument or other document herein shall be construed to refer to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth therein).

(i) Any reference to any Person, or to any Person in a specified capacity, shall be construed to include such Person's successors and assigns or such Person's successors in such capacity, as the case may be.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF DEBTOR

Section 2.1. Representations and Warranties of Debtor. The Debtor does hereby represent and warrant that:

(a) The Debtor is a limited liability company duly organized under the laws of the state set forth on the cover page of this Mortgage, is validly existing and in good standing under the laws of its state of organization, is duly qualified to do business and in good standing under the laws of the State, is not in violation of any provision of its articles of organization or operating agreement, has the requisite corporate power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Mortgage and each other Project Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Mortgage and each other Project Document to which the Debtor is or shall be a party and the consummation of the transactions herein and therein contemplated will not (x) violate any provision of law, any order of any court or agency of government, or any of the articles of organization or operating agreement of the Debtor, or any indenture, agreement or other instrument to which the Debtor is a party or by which it or any of its property is bound or to which it or any of its property is subject, (y) be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or (z) result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) There is no action or proceeding pending or, to the best of the Debtor's knowledge, after diligent inquiry, threatened by or against the Debtor by or before any court or administrative Issuer that would adversely affect the ability of the Debtor to perform its obligations under this Mortgage or any other Project Document to which it is or shall be a party.

(d) The Debtor has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Debtor as of the Closing Date in connection with the execution and delivery of this Mortgage and each other Project Document to which the Debtor is a party or in connection with the performance of the obligations of the Debtor hereunder and under each of the Project Documents.

(e) This Mortgage and the other Project Documents to which the Debtor is a party (x) have been duly authorized by all necessary action on the part of the Debtor, (y) have been duly executed and delivered by the Debtor, and (z) constitute the legal, valid and binding obligations of the Debtor, enforceable against the Debtor in accordance with their respective terms.

(f) The assumption by the Debtor of its obligations hereunder will result in a direct financial benefit to the Debtor.

(g) The Debtor has power to enter into and perform this Mortgage, to create, pledge and grant the mortgage, pledge, assignment and security interest in the Mortgaged Property as provided in this Mortgage, and to own its property and assets.

(h) The Debtor is vested with good and marketable title to the Facility Realty, subject to no mortgage, lien, charge, pledge, assignment, security interest, conditional sale agreement or encumbrance of any kind whatsoever, other than Permitted Encumbrances.

(i) The Debtor is, as of the Closing Date, and after giving effect to all instruments evidencing or securing the Obligations will be, in a solvent condition.

(j) The execution and delivery of this Mortgage does not constitute a “fraudulent conveyance” within the meaning of Title 11 of the United States Code as so constituted or under any other applicable law.

(k) No bankruptcy or insolvency proceedings are pending or contemplated by or, to the best knowledge of the Debtor, against, the Debtor.

(l) This Mortgage does not give any Person other than the Mortgagee the right to payment of the Obligations.

(m) The Debtor is duly authorized to mortgage and grant a security interest in the Mortgaged Property, and this Mortgage is a second lien upon the Mortgaged Property, subject only to the Mortgage and Security Agreement (Building Loan) and Permitted Encumbrances.

ARTICLE III

GENERAL AGREEMENTS OF DEBTOR

Section 3.1. Payment, Performance, Observance and Compliance. The Debtor agrees to pay, perform, observe and comply with such of the Obligations to which it shall be subject (including this Mortgage) upon the terms and provisions required of the Debtor therein.

Section 3.2. Acknowledgment of Amount Due. The Debtor shall, upon request, furnish to the Mortgagee, in person within five (5) days, or, by mail within ten (10) days, a written statement duly acknowledged of the amount due under this Mortgage (the “Obligations”) and whether any offsets or defenses exist against the Obligations.

Section 3.3. Security Agreement. This Mortgage is and shall be deemed to be a security agreement under the New York State Uniform Commercial Code with respect to the Mortgaged Property, and the Mortgagee shall have all the rights of a secured party thereunder with respect to that part of the Mortgaged Property that constitutes personal property subject thereto (sometimes referred to herein as the “Secured Property”). Upon request by the Mortgagee, Debtor, at its sole cost and expense, shall execute and deliver to the Mortgagee any security agreement, financing or continuation statement or other document the Mortgagee reasonably deems necessary to protect or perfect its lien on the Mortgaged Property. If the Debtor shall default under this Mortgage, the Mortgagee, in addition to any other rights and remedies that it may have, shall have and may exercise immediately and without demand any and all rights and remedies granted to a secured party upon default under the New York State Uniform Commercial Code, including the right to take possession of the Secured Property or any part thereof or indicia thereof, and to take such other measures as the Mortgagee may deem necessary for the care, protection and preservation of the Secured Property. Upon request or demand of the Mortgagee, the Debtor shall, at the Debtor’s sole cost and expense, assemble the Secured Property and make it available to the Mortgagee at a convenient place acceptable to the Mortgagee. The Debtor shall pay to the Mortgagee on demand all costs and expenses, including reasonable legal expenses and attorneys’ fees and expenses, incurred or paid by the Mortgagee in protecting its interest in the Secured Property and in enforcing its rights hereunder with respect to the Secured Property. Any notice of sale, other disposition, or other intended action by the Mortgagee with respect to the Secured Property sent to the Debtor in accordance with the provisions of this Mortgage at least seven (7) days prior to the date of any such sale, other disposition, or other intended action set forth or specified in the notice shall conclusively be deemed to be commercially reasonable within the meaning of the New York State Uniform Commercial Code unless objected to in writing by the Debtor within five (5) days after receipt by the Debtor of the notice. The proceeds of any sale or other disposition of the Secured Property, or any part thereof, shall be applied to the payment of the Obligations as provided in Section 5.17.

Section 3.4. Ownership; Instruments of Further Assurance. The Mortgagee on behalf of the Debtor (at the sole cost and expense of the Debtor) shall defend the title of the Debtor to the Mortgaged Property and every part thereof and the Debtor agrees to warrant and defend such title against the claims and demands of all Persons whomsoever. The Debtor

covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, at the sole cost and expense of the Debtor, such supplements hereto and such further acts, instruments and transfers as the Mortgagee may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Mortgagee all and singular the property herein described and subject to the lien and security interest of this Mortgage and those revenues pledged hereby and by the Indenture to the payment of the Obligations. Any and all property hereafter acquired (other than the Institution's Property) which is of the kind or nature herein provided to be and become subject to the lien and security interest hereof shall ipso facto, and without any further conveyance, assignment or act on the part of the Debtor or the Mortgagee, become and be subject to the lien and security interest of this Mortgage as fully and completely as though specifically described herein, but nothing in this sentence contained shall be deemed to modify or change the obligations of the Debtor heretofore made by this Section 3.4.

Section 3.5. Creation of Liens; Indebtedness; Sale of Facility. The Debtor covenants that this Mortgage is and will be a second lien upon the Mortgaged Property, subject only to the Mortgage and Security Agreement (Building Loan) and Permitted Encumbrances. The lien of the Indenture is subject and subordinate to the liens of this Mortgage, the Mortgage and Security Agreement (Building Loan). The Debtor shall not create or suffer to be created any lien or charge upon or pledge of the Mortgaged Property or any part thereof, except the lien, charge and pledge created by this Mortgage and the other Permitted Encumbrances. The Debtor shall not incur any indebtedness or issue any evidences of indebtedness, other than the Obligations, secured by a lien on or pledge of the Mortgaged Property, except for Permitted Encumbrances or as set forth in the Loan Agreement. The Debtor further covenants and agrees not to sell, convey, transfer, lease, mortgage or encumber the Facility or any part thereof except as specifically permitted under the Loan Agreement, the Indenture, this Mortgage and the other Permitted Encumbrances, so long as any of the Obligations are Outstanding.

Section 3.6. Release of Property. Reference is made to the provisions of the Loan Agreement, including, without limitation, Sections 5.5 and 10.11(c) thereof, whereby the Debtor may withdraw from the Facility any Facility Personalty or fixtures or any right-of-way, easement, permit or license or unimproved portion thereof, all upon compliance with the terms and conditions of the Loan Agreement. At the request of the Debtor, and at the sole cost and expense of the Debtor, the Mortgagee shall release from the lien and security interest of this Mortgage, and release from the Loan Agreement, such portion of the property of the Facility so withdrawn upon compliance with the provisions of the Loan Agreement and shall confirm any such release.

Section 3.7. Recording and Filing. (a) The Debtor shall cause this Mortgage and all supplements hereto to be recorded (at the sole cost and expense of the Debtor) as a mortgage of real property in the appropriate offices of the Register of The City of New York or in such other offices as may be at the time provided by law as the proper place for the recordation thereof. In addition, the security interest of the Mortgagee, as created by this Mortgage, in the personal property and fixtures and the rights and other intangible interests herein described, shall be perfected by the filing of financing statements by the Debtor, at the sole cost and expense of the Debtor, in the offices of the Secretary of State of the State in the City of Albany, New York, and in the offices of such Register of The City of New York, which

financing statements shall be in accordance with the New York State Uniform Commercial Code - Secured Transactions. All mortgage recording taxes, if any, and filing and recording charges and fees shall be payable by the Debtor.

(b) The Debtor and the Mortgagee acknowledge that, as of the Closing Date,

(i) Section 9-515 of the New York State Uniform Commercial Code-Secured Transactions provides that an initial financing statement filed in connection with a "public-financed transaction" is effective for a period of thirty (30) years after the date of filing if such initial financing statement indicates that it is filed in connection with a public financed transaction,

(ii) Section 9-102(67) of the New York State Uniform Commercial Code-Secured Transactions defines a public-finance transaction as a secured transaction in connection with which, in substance, (x) bonds are issued, (y) all or a portion of the bonds have an initial stated maturity of at least twenty (20) years, and (z) the debtor, obligor, secured party or assignee with respect to the collateral or secured obligation is a governmental unit of a state, and

(iii) subject to any future change in law, the initial financing statement as shall be filed with respect to the security interest described above shall therefore have an effective period of thirty (30) years after the date of filing, for the purpose of determining the date by which continuation statements shall be filed.

(c) The parties hereto acknowledge and agree that, because the foregoing financing statements evidence collateral for the Bonds, and because the Bonds are municipal securities with a term that is at least twenty (20) years in duration, there is no need under the Uniform Commercial Code of the State of New York to re-file such financing statements in order to preserve the liens and security interests that they create for the period commencing with the Closing Date and terminating on the thirtieth anniversary of the Closing Date.

Subsequent to the foregoing recordation and filings, if in the Opinion of Counsel to the Debtor (described herein below), to preserve (after the thirtieth (30th) anniversary of the Closing Date) the lien and security interest of this Mortgage, it is necessary to re-record and/or re-index documents, re-file financing statements and/or file continuation statements and/or take any other actions (individually or collectively, the "**Continuation Action(s)**"), then, the Debtor in a timely manner shall: (A) as applicable, (i) prepare and deliver to the Mortgagee all necessary instruments and filing papers, together with remittances equal to the cost of required filing fees and other charges, so that the Mortgagee may perform the Continuation Actions, or (ii) electronically perform the Continuation Actions and deliver to the Mortgagee written certification (upon which the Mortgagee may conclusively rely) that such performance has occurred, specifying the Continuation Actions performed, or (iii) perform some of the Continuation Actions in the manner described in clause "(i)" and the others in the manner described in clause "(ii)"; and (B) deliver or cause to be delivered to the Mortgagee the Opinion of Counsel to the Debtor as described below. The Mortgagee may conclusively rely upon (y) when applicable, the certification referred to in clause "(A)(ii)," and (z) in all instances, the Opinion of Counsel to the Debtor. In the event the Debtor chooses to have the Mortgagee

perform all or some of the Continuation Actions, as provided in clause “(A)(i)” hereinabove, the Mortgagee shall reasonably promptly perform such Continuation Actions at the Debtor’s sole expense. The Debtor shall perform the obligations described hereinabove in clauses “(A)” and “(B)” no later than ten (10) days prior to (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) each fifth (5th) anniversary thereafter, and/or (ii) the date (not covered by clause “(i)”) on which a Continuation Action is to be taken to preserve the lien and security interest of this Mortgage.

The Opinion of Counsel to the Debtor shall be addressed to the Debtor and the Mortgagee. Counsel shall deliver successive Opinions of Counsel in respect of (i)(y) the thirtieth (30th) anniversary of the Closing Date, and (z) every five-year period thereafter through the term of the Bonds, and/or (ii) the date of any required Continuation Action not covered by clause “(i),” in each case not later than fifteen (15) days prior to the date on which a Continuation Action is required to be taken. In the Opinion of Counsel to the Debtor, counsel shall opine as to: (i) what Continuation Actions are necessary; and (ii) the deadline dates for the required Continuation Actions; and (iii) the jurisdictions in which the Continuation Actions must be effected. Counsel in such opinion shall additionally opine that, upon performance of the Continuation Actions by, as the case may be, (i) the Mortgagee with instruments and papers prepared by the Debtor, or (ii) the Debtor through electronic filing, or (iii) the Mortgagee as to some Continuation Actions, and the Debtor as to the others through electronic filings, all appropriate steps shall have been taken on the part of the Debtor and the Mortgagee then requisite to the maintenance of the perfection of the security interest of the Mortgagee in and to all property and interests which by the terms of this Mortgage are to be subjected to the lien and security interest of this Mortgage.

(d) Any filings with respect to the Uniform Commercial Code financing statements may be made electronically, and the Debtor (which shall be reasonably acceptable to the Trustee) shall have the right to designate a company to facilitate the filing of the Uniform Commercial Code financing statements.

(e) The Debtor and the Trustee (on behalf of itself and the Bondholders) acknowledge and agree that neither the Issuer nor the Trustee, nor any of their respective directors, members, officers, employees, servants, agents, persons under its control or supervision, or attorneys (including Bond Counsel to the Issuer), shall have any responsibility or liability whatsoever related in any way to the filing or re-filing of any Uniform Commercial Code financing statements or continuation statements, or the perfection or continuation of perfection of any security interests, or the recording or rerecording of any document, or the failure to effect any act referred to in this Section, or the failure to effect any such act in all appropriate filing or recording offices, or the failure of sufficiency of any such act so effected.

(f) All costs (including reasonable attorneys’ fees and expenses) incurred in connection with the effecting of the requirements specified in this Section shall be paid by the Debtor.

(g) The Debtor agrees to perform all other acts (including the payment of all fees and expenses) necessary in order to enable the Mortgagee to comply with this Section, and with Section 7.07 of the Indenture, including but not limited to, providing prompt notice to the

Mortgagee of any change in either of the name or address of the Debtor. The Debtor agrees that the Mortgagee, if permitted by applicable law, may provide for the re-recording of the Indenture or any other Security Document or the filing or re-filing of continuation statements without the cooperation of the Debtor as necessary at the Debtor’s sole cost and expense.

Section 3.8. After-Acquired Property. Except as provided in Section 3.4(d) of the Loan Agreement, all right, title and interest of the Debtor in and to all improvements, betterments, renewals, substitutes and replacements of, and all additions, accessions and appurtenances to, the Mortgaged Property (other than trade fixtures), or any part thereof, hereafter acquired, constructed, assembled or placed by or at the direction of the Debtor on or in the Facility (other than trade fixtures), and all conversions and proceeds of the security constituted thereby, immediately upon such acquisition, construction, assembly, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance or assignment or other act of the Debtor, shall become subject to the security and lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Debtor and specifically described in the Granting Clauses hereof; but at any and all times the Debtor, on demand, will execute, acknowledge, deliver to the Mortgagee and the Debtor will cause to be recorded or filed as provided in Section 3.7, any and all such further assurances and mortgages, conveyances or assignments thereof as the Mortgagee may reasonably require for the purposes of expressly and specifically subjecting the same to the security and lien of this Mortgage.

Section 3.9. Additional Taxes or Charges. If any law or ordinance is enacted or adopted which imposes a tax, either directly or indirectly, on this Mortgage, the Debtor will pay such tax, with interest and penalties thereon, if any. If at any time the United States of America, any state thereof or any governmental subdivision of any such state, shall require revenue or other stamps to be affixed to this Mortgage or any of the other Security Documents, the Debtor agree to pay for the same, with interest and penalties thereon, if any. Nothing contained in this Section 3.9 shall obligate the Debtor to indemnify the Mortgagee for any income tax liability of the Mortgagee arising by reason of this Mortgage.

Section 3.10. Notice of Event of Default. The Debtor shall immediately notify the Mortgagee in writing of any Event of Default or any event which with notice and/or lapse of time would constitute an Event of Default under any Security Document. Any notice required to be given pursuant to this Section shall be signed by the Debtor and set forth a description of the default and the steps, if any, being taken to cure said default. If no steps have been taken to cure a default, the notice should plainly state this fact.

Section 3.11. Insurance Requirements. In addition to any insurance required pursuant to Section 8.1 of the Loan Agreement, the Debtor does hereby warrant and agree as follows:

(a) At all times throughout the term of this Mortgage, including without limitation during any period of construction, reconstruction or substantial renovation of the Facility, the Debtor shall maintain insurance, or cause there to be maintained insurance, if applicable, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Debtor. In

addition to this general requirement, such insurance shall, for purposes of subsections (b) through (f) of this Section 3.11, include, without limitation, insurance coverage described in paragraphs (i) through (iv) below (hereinafter, "Specific Coverage"):

(i) (A) Property damage insurance, and (B) during any period of construction, reconstruction or substantial renovation of the Facility (to the extent not otherwise covered by property damage insurance), Builders' All Risk Insurance written on "100% builders' risk completed value, non-reporting form" including coverage therein for "completion and/or premises occupancy" and coverage for property damage insurance, all of which insurance shall include coverage for removal of debris, insuring the buildings, structures, facilities, fixtures and other property constituting a part of the Facility against loss or damage to the Facility by all risk of physical loss at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Issuer, the Debtor or the Trustee from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to the greater of (A) 110% of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer (selected by the Debtor) not less often than once every three years, at the expense of the Debtor, and (B) the principal amount of the Outstanding Bonds; any such insurance may provide that the insurer is not liable to the extent of the first \$10,000 with the result that the Debtor is its own insurer to the extent of \$10,000 of such risks;

(ii) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus located on the Facility from risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar business enterprises;

(iii) To the extent the Facility may be located in a flood zone, or if otherwise required by federal law, flood certification or flood insurance, to the extent not covered by property damage insurance, in an amount equal to the greater of the full replacement cost or the maximum amount then available under the National Flood Insurance Program; and

(iv) Such other insurance, including revision of the insurance requirements set forth above, in such amounts and against such insurable hazards as the Trustee (at the specific written direction of the Majority Holders) from time to time may reasonably require.

(b) All Specific Coverage required by Section 3.11(a) shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State and having an A.M. Best rating of "A" or better. At least once every two Fiscal Years, the Debtor agrees to deliver a certificate of an independent insurance consultant to the Trustee which indicates that the insurance then maintained by the Debtor meets the requirements of this Section 3.11 and Section 8.1 of the Loan Agreement.

(c) Each of the policies evidencing the Specific Coverage required above to be obtained shall:

(i) designate the Debtor and the Trustee as additional insureds as their respective interests may appear;

(ii) provide that all insurance proceeds with respect to loss or damage to the property of the Facility be endorsed and made payable to the Trustee and shall name the Trustee as a loss payee under the standard loss payee clause and as a mortgagee under the terms of a standard mortgagee clause, which insurance proceeds shall be paid over to the Trustee and deposited in the Renewal Fund;

(iii) provide that there shall be no recourse against the Trustee for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that in respect of the interest of the Trustee in such policies, the insurance shall not be invalidated by any action or inaction of the Debtor or any other Person and shall insure the Trustee regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(v) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Trustee to the extent that such other insurance provides the Trustee with contingent and/or excess liability insurance with respect to its interest in the Facility;

(vi) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Trustee until at least thirty (30) days, or ten (10) days due to nonpayment of premium, after receipt by the Trustee of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vii) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy; and

(viii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies or interim insurance contracts with respect to facilities similar to the Facility owned or operated by it.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility (except if such Net Proceeds so received for any Loss Event shall be less than \$50,000 in which event such Net Proceeds shall be paid directly to the Debtor and applied by the Debtor to the rebuilding, replacement, repair and restoration of the

Facility with any excess to be retained by the Debtor) shall be deposited in the Renewal Fund and applied in accordance with Section 6.2 of the Loan Agreement and the Indenture.

(e) The Debtor shall deliver or cause to be delivered to the Trustee the following documents evidencing compliance with the Specific Coverage requirements of this Section 3.11: (i) on or prior to the Closing Date: (A) a broker's certificate of coverage, upon which the Trustee may conclusively rely in order to confirm compliance with the requirements of this Section 3.11, confirming that the Debtor, as of the Closing Date, has obtained Specific Coverage in accordance with the requirements of this Section 3.11, and (B) evidence of property insurance and certificates or other evidence of other required insurance and, (ii) as soon as practicable thereafter, duplicate copies of insurance policies and/or binders. At least seven (7) Business Days prior to the expiration of any such policy, the Debtor shall furnish the Trustee with evidence that such policy has been renewed or replaced or is no longer required by this Mortgage.

(f) The Debtor shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Trustee (upon the specific written direction of the Majority Holders) to collect from insurers for any loss covered by any insurance required to be obtained by this Section 3.11. The Debtor shall not do any act, or suffer or permit any act to be done, whereby any Specific Coverage required by this Section 3.11 would or might be suspended or impaired.

(g) THE DEBTOR ACKNOWLEDGES THAT THE INSURANCE SPECIFIED HEREIN AND IN THE LOAN AGREEMENT IS NOT IN ANY WAY A REPRESENTATION BY THE ISSUER OR THE TRUSTEE THAT SUCH INSURANCE, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTEREST OF THE DEBTOR.

ARTICLE IV

ASSIGNMENT OF LEASES AND RENTS

Section 4.1. Assignment of Leases and Rents. The Debtor hereby assigns to the Mortgagee the rents, issues and profits of the Facility (other than any amounts paid pursuant to the Loan Agreement) as further security for the payment of the Obligations, and the Debtor grants to the Mortgagee the right to enter upon and to take possession of the Facility for the purpose of collecting the same and to let the Facility or any part thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment and grant shall continue in effect until the Obligations are paid. The Mortgagee hereby waives the right to enter upon and to take possession of the Facility for the purpose of collecting said rents, issues and profits, and the Debtor shall be entitled to collect and receive said rents, issues and profits and to apply same in payment of the amounts becoming due on the Obligations, operating expenses related to the Facility and other expenses (capital or otherwise) consistent with the purposes of the Debtor until the occurrence of an Event of Default hereunder. The Debtor will not, without the written consent of the Mortgagee, receive or collect rent from any tenant of the Facility or any part thereof for a period of more than one month in advance. Upon the occurrence of an Event of Default hereunder, the Debtor will pay monthly in advance to the Mortgagee, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of the Facility or of such part thereof as may be in the possession of the Debtor, and upon default in any such payment will vacate and surrender the possession of the Facility to the Mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.

Section 4.2. No Cancellation or Modification of Leases. The Debtor shall not, without the prior written consent of the Mortgagee, make, or suffer to be made, any leases or cancel or modify any leases or accept prepayments of installments of rent for a period of more than one month in advance or further assign the whole or any part of the rents without the prior written consent of the Mortgagee. No lease or contract (other than the Loan Agreement) covering all or any part of the Mortgaged Property shall be valid or effective without the prior written approval of the Mortgagee. The Mortgagee shall have all of the rights against the Debtor of the Mortgaged Property as set forth in Section 291-f of the Real Property Law of New York. In respect of any lease, the Debtor will (i) fulfill or perform each and every provision thereof on its part to be fulfilled or performed; (ii) promptly send copies of all notices of default which either shall send or receive thereunder to the Mortgagee; and (iii) enforce, short of termination thereof, the performance or observance of the provisions thereof. Nothing contained in this Mortgage shall be deemed to impose on the Mortgagee any of the obligations of the lessor under the leases.

Section 4.3. Required Lease Provisions. Subject to Section 4.1, all leases must provide that the tenant thereunder shall pay to the Mortgagee upon an Event of Default hereunder all sums due under the lease upon notice to the tenant from the Mortgagee, and that the Debtor, and any tenant shall, at the Mortgagee's option, furnish the Mortgagee with an estoppel and attornment letter as to the leases in form and substance reasonably acceptable to the Mortgagee.

Section 4.4. Debtor Not to Waive Rents. The Debtor will not waive, release, reduce, discount or otherwise discharge or assign to any Person other than the Mortgagee the leasehold payments, rents, issues and profits of the Facility (other than as contemplated by the Loan Agreement), or cancel, abridge or otherwise modify any lease of all or any part of the Facility. In addition, the Debtor will observe and comply with all of its obligations as lessor under any such lease, will promptly notify the Mortgagee if it receives any default notice thereunder and forward a copy of the default notice to the Mortgagee, and enforce any default thereunder by the tenant. The Debtor shall not, however, terminate any such lease without the prior written consent of the Mortgagee.

Section 4.5. Debtor to Furnish Rent Rolls. The Debtor will furnish to the Mortgagee, within fifteen (15) Business Days after mailing to the Debtor of a written request therefor, a detailed statement in writing, duly sworn, and covering the period of time specified in such request, showing all income derived from the operation of the Facility and all disbursements made in connection therewith, and containing a list of the names of all tenants of the Facility specified in such request, showing all income derived from the operation of the Facility and occupants other than those claiming possession through such tenants, the portion or portions of the Facility occupied by such tenant and occupant, the rents and other charges payable under the terms of their leases or other agreements, and the periods covered by such leases or other agreements.

ARTICLE V

REMEDIES; EVENTS OF DEFAULT

Section 5.1. Protective Action. The Mortgagee (at the direction of the Majority Holders) may take such action as the Mortgagee deems reasonably appropriate upon ten (10) days prior written notice to the Debtor (except that no such prior notice shall be required if in the reasonable judgment of the Mortgagee an emergency condition shall exist that threatens to do severe damage to or destruction of the Facility) to protect the Mortgaged Property or the status or priority of the lien of this Mortgage thereon including, but not limited to, entry upon the Facility to protect it from deterioration or damage, or to cause the Mortgaged Property to be put in compliance with any governmental, insurance rating or contract requirements; dispossession of the Debtor if necessary to remedy an emergency condition; payments of amounts due on liens having priority over this Mortgage if such lien constitutes a default pursuant to this Mortgage; curing any default by the Debtor under any of the Security Documents including this Mortgage; payment of any tax or charge for purposes of assuring the priority or enforceability of this Mortgage if failure to pay such tax by the Debtor is a default pursuant to this Mortgage; obtaining insurance on the Mortgaged Property; or commencement or defense of any legal action or proceeding to assert or protect the validity or priority of the lien of this Mortgage. The Debtor agrees to reimburse the Mortgagee for all expenses in taking any such action, on demand, with interest at a rate being the lesser of (i) eighteen percent (18%) per annum or (ii) the highest rate permitted under the applicable usury law, and the amount thereof shall be secured by this Mortgage and shall, to the extent permitted by law, be in addition to the maximum amount of the Obligations heretofore stated.

Section 5.2. Benefit of Section 254 of the Real Property Law. Nothing herein contained shall be construed as depriving the Mortgagee of any right or advantage available under Section 254 of the Real Property Law of the State of New York, but all covenants herein differing therefrom shall be construed as conferring additional and not substitute rights and advantages.

Section 5.3. Sole Discretion of the Mortgagee. Wherever pursuant to this Mortgage, the Mortgagee exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to the Mortgagee, the decision of the Mortgagee to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in the sole discretion of the Mortgagee and shall be final and conclusive. Notwithstanding the foregoing, if, pursuant to the terms of the Indenture or this Mortgage, a stated percentage of Holders of the Outstanding Bonds has the right to direct the Mortgagee in the exercise of any such right, such direction shall be final and conclusive, provided that such direction shall not be arbitrary or capricious.

Section 5.4. Recovery of Sums Required To Be Paid. The Mortgagee shall have the right (at the written direction of the Majority Holders) from time to time to take action to recover any sum or sums which constitutes a part of the Obligations as the same becomes due, without regard to whether or not the balance of the Obligations shall be due, and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other

action, for a default or defaults by the Debtor existing at the time such earlier action was commenced.

Section 5.5. Events of Default. Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Failure of the Debtor to pay any amount that has become due and payable hereunder, and continuance of such failure for a period of two (2) Business Days after written notice has been given to the Debtor specifying the nature of such default by the Mortgagee;

(b) Failure of the Debtor to observe and perform any covenant, condition or agreement hereunder on its part to be performed (except as set forth in Section 5.5(a) above) and (1) continuance of such failure for more than thirty (30) days after written notice of such failure has been given to the Debtor specifying the nature of such failure by the Mortgagee, or (2) if by reason of the nature of such failure the same can be remedied, but not within the said thirty (30) days, the Debtor fails to commence and thereafter proceed with reasonable diligence after receipt of said notice to cure such failure or fails to continue with reasonable diligence its efforts to cure such failure or fails to cure such failure within sixty (60) days of delivery of said notice;

(c) The Debtor shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(d) A proceeding or case shall be commenced, without the application or consent of the Debtor in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Debtor or of all or any substantial part of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of ninety (90) days; or any order for relief against the Debtor shall be entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect); the terms “dissolution” or “liquidation” of the Debtor as used above shall not be construed to prohibit any action otherwise permitted by Section 8.20 of the Loan Agreement;

(e) Any representation or warranty made by the Debtor (i) in the application and related materials submitted to the Issuer for approval of the Project or the transactions contemplated by this Mortgage, (ii) herein, (iii) in any other Project Document, or (iv) in any

report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall, in any case, prove to be false, misleading or incorrect in any material respect as of the date made;

(f) The Debtor shall be in default under any other mortgage covering any part of the Mortgaged Property and proceedings shall have been commenced to foreclose such mortgage, whether it be superior or inferior to the lien of this Mortgage; or

(g) An “Event of Default” under any Security Document shall occur and be continuing.

Section 5.6. Remedies Following an Event of Default. Upon the occurrence of an Event of Default hereunder, the Mortgagee may, in addition to any other rights or remedies available to it hereunder or elsewhere, take such action, without notice or demand, as it deems advisable, as directed by the Majority Holders, to protect and enforce its rights against the Debtor and in and to the Mortgaged Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Mortgagee, as directed by the Majority Holders, may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Mortgagee:

(a) enter into or upon the Mortgaged Property, either personally or by its agents, nominees or attorneys, and dispossess the Debtor and its agents and servants therefrom, and thereupon the Mortgagee, as directed by the Majority Holders, may:

- (1) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct business thereat and therewith;
- (2) complete any construction, renovation, rebuilding or repairing of the Mortgaged Property in such manner and form as the Mortgagee deems advisable;
- (3) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property;
- (4) exercise all rights and powers of the Debtor with respect to the Mortgaged Property, whether in the name of the Debtor or otherwise, including, without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Mortgaged Property and every part thereof; and
- (5) apply the receipts from the Mortgaged Property to the payment of the Obligations in accordance with Section 8.03 of the Indenture;

(b) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this

Mortgage for the portion of the Obligations then due and payable, subject to the continuing security and lien of this Mortgage for the balance of the Obligations not then due;

(c) institute proceedings to foreclose the lien of this Mortgage against all or, from time to time, against any part of the Mortgaged Property and to have the same sold under the judgment or decree of a court of competent jurisdiction to the highest bidder, at public or private sale, subject to statutory and other legal requirements, if any, including all right, title and interest, claim and demand therein and thereto and all right of redemption thereof;

(d) sell, assign or transfer the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of the Debtor therein and right of redemption thereof, pursuant to power of sale or otherwise, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law (provided that ten (10) days notice of sale of the Mortgaged Property shall be deemed reasonable notice) for such price and form of consideration as the Mortgagee may determine or as may be required by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein;

(f) apply for the appointment of or appoint a trustee, receiver, liquidator or conservator of the Mortgaged Property, without regard for the adequacy of the security for the Obligations and without regard for the solvency of any Person liable for the payment of the Obligations whether or not in connection with an action to foreclose this Mortgage;

(g) take possession of the Mortgaged Property (which shall, to the extent practicable, be assembled and made available to the Mortgagee by the Debtor at such place in New York City or elsewhere as may be required by the Mortgagee) and otherwise exercise any and all of the rights of secured parties under the New York State Uniform Commercial Code-Secured Transactions;

(h) without prejudice to its right to bring an action for foreclosure of this Mortgage, sell the Mortgaged Property, or any part thereof, and all estate, right, title and interest, claim and demand therein, and right of redemption thereof, to the extent permitted and pursuant to the procedures provided by applicable law, including, without limitation, Article 14 of the Real Property Actions and Proceedings Law of the State of New York and any amendments or substitute statutes in regard thereto, at one or more sales as a single parcel or in parcels, and at such time and place and upon such terms and after such notice thereof as may be required or permitted by law; or

(i) pursue such other remedies as the Mortgagee may have under applicable law.

Further, the Debtor, if there shall occur an Event of Default, shall pay monthly in advance to the Mortgagee, or to any receiver appointed at the request of the Mortgagee to collect the rents, revenues, issues, income and profits of the Mortgaged Property, the fair and reasonable rental value for the use and occupancy of the Mortgaged Property or of such part thereof as may be in the possession of the Debtor. Upon default in the payment thereof, the Debtor shall vacate

and surrender possession of the Mortgaged Property to the Mortgagee or such receiver, and upon a failure so to do may be evicted by summary proceedings.

If an Event of Default shall happen and be subsisting, in case there shall be pending proceedings for the bankruptcy or for the reorganization of the Debtor under the federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Debtor or in the case of any other similar judicial proceedings relative to the Debtor, or to the credits or property of the Debtor, the Mortgagee shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount owing and unpaid pursuant to this Mortgage, irrespective of whether the principal of the Obligations or any amount hereunder shall then be due and payable as therein or herein expressed or by declaration or otherwise, and irrespective of whether the Mortgagee shall have made any demand pursuant to the provisions of this Section 5.6 or of Section 8.01 of the Indenture, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Mortgagee allowed in such judicial proceedings relative to the Debtor, its creditors, or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of their charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the Mortgagee, and to pay to the Mortgagee any amount due it for compensation and expenses, including reasonable counsel fees and expenses incurred by it up to the date of such distribution.

Section 5.7. Appointment of a Receiver. Upon the occurrence of an Event of Default, the Mortgagee shall be entitled to the appointment of a receiver. The right to have a receiver appointed shall be a matter of strict right and without regard to the value or adequacy of the security and such receiver may enter upon and take possession of the Mortgaged Property, collect the rents, issues and profits therefrom and apply the same as the court may direct, such receiver to have all of the rights and powers as a receiver may have under the laws of the State of New York. The expenses, including, without limitation, receiver's fees, counsel fees and expenses, costs and agent's commissions and compensation incurred pursuant to the powers herein granted shall be added to the principal portion of the Obligations and secured hereby.

Section 5.8. Foreclosure. In a case of a foreclosure sale or pursuant to any order in any judicial proceeding or otherwise, the Mortgaged Property may be sold as an entirety in one parcel (or as one integrated unit) or separate parcels (or one or more of the interests comprising the Mortgaged Property separately from the others) in such manner or order as the Mortgagee in its sole and absolute discretion may elect. If the Mortgagee so elects it may sell the remainder of the property except for the land, buildings and improvements, at one or more separate sales in the manner provided by the Uniform Commercial Code of the State of New York. One or more exercises of the powers herein granted shall neither extinguish nor exhaust such powers, until the entire property is sold or the Obligations secured hereby are paid in full or otherwise provided for in accordance with their terms.

Section 5.9. Non-Impairment. No provision of this Mortgage: (a) is or shall be deemed to be a release or impairment of any of the Obligations including this Mortgage, (b) shall preclude the Mortgagee, upon the occurrence of an Event of Default hereunder, from

foreclosing this Mortgage or from enforcing its rights hereunder or under any other instrument governing or securing the Obligations, (c) shall preclude or bar the Mortgagee upon foreclosure from obtaining a deficiency judgment against the Debtor, against any subsequent owner of the Mortgaged Property who assumes the Obligations on a non-recourse basis, or against any other Person liable for the payment and performance of the Obligations (subject to the provisions of Section 6.1), (d) shall require the Mortgagee to accept a part of the Mortgaged Property (as distinguished from its entirety) as payment of the debt secured hereby, or (e) shall compel the Mortgagee to accept or allow any apportionment of the debt secured hereby to or among any separate parts of the Mortgaged Property.

Section 5.10. No Remedy Exclusive. No remedy conferred upon or reserved to the Mortgagee hereunder is or shall be deemed to be exclusive of any other available remedy or remedies. Each such remedy shall be distinct, separate and cumulative, shall not be deemed to be inconsistent with or in exclusion of any other available remedy, may be exercised in the discretion of the Mortgagee at any time, in any manner, and in any order, and shall be in addition to and separate and distinct from every other remedy given the Mortgagee under this Mortgage or any other Security Document or now or hereafter existing in favor of the Mortgagee at law or in equity or by statute. Without limiting the generality of the foregoing, the Mortgagee shall have the right to exercise any available remedy to recover any amount due and payable hereunder without regard to whether any other amount is due and payable, and without prejudice to the Mortgagee to exercise any available remedy for other Events of Default existing at the time the earlier action was commenced.

Section 5.11. Delay To Not Constitute Waiver. Any delay, omission or failure by the Mortgagee to insist upon the strict performance by the Debtor of any of the covenants, conditions and agreements herein set forth to be exercised by it or to exercise any right or remedy available to it upon the occurrence of an Event of Default hereunder shall not impair any such right or remedy or be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce, by injunction or other appropriate legal or equitable remedy, strict compliance by the Debtor with all of the covenants, conditions and agreements herein to be exercised by it, or of the right to exercise any such rights or remedies if such default by the Debtor be continued or repeated. Any failure of the Mortgagee to exercise the option to accelerate the maturity of Obligations secured hereby, or any forbearance by the Mortgagee before or after any exercise of any such option, or any forbearance to exercise any other remedy of the Mortgagee, or any withdrawal or abandonment of the Mortgagee of any of its rights in any one circumstance shall not be construed as a waiver of any option, power, remedy or right of the Mortgagee hereunder. The rights and remedies of the Mortgagee expressed and contained in this Mortgage are cumulative and none of them shall be deemed to be exclusive of any other or of any right or remedy the Mortgagee may now or hereafter have in law or in equity. The election of any one or more remedies shall not be deemed to be an election of remedies under any statute, rule, regulation or case law. The covenants of this Mortgage shall run with the Mortgaged Property and other properties and the estates hereby mortgaged and bind the Debtor and its assigns, legal representatives and successors and shall inure to the benefit of the Mortgagee, its successors and assigns.

Section 5.12. Effect of Discontinuance of Proceedings. In case any proceedings taken by the Mortgagee on account of any Event of Default hereunder shall have

been discontinued or abandoned for any reason, or shall have been determined adversely to the Mortgagee, then and in every such case, the Debtor, the Mortgagee and the Holders of the Bonds shall be restored, respectively, to their former positions and rights hereunder, and all rights, remedies, powers and duties of the Mortgagee shall continue as in effect prior to the commencement of such proceedings.

Section 5.13. Marshalling. The Debtor waives and releases any right to have the Mortgaged Property marshalled.

Section 5.14. Actions and Proceedings. The Mortgagee shall have the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding which the Mortgagee, in its discretion, determines to be brought to protect its interest in the Mortgaged Property. The Mortgagee shall further have the right, from time to time, to sue for any sums required to be paid under the terms of this Mortgage or any other mortgage to which this Mortgage is expressly subordinate, as the same become due, without regard to whether or not the principal sums secured or any other sums secured by this Mortgage shall be due and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure or any other action for a default or defaults by the Debtor existing at the time such earlier action was commenced.

Section 5.15. Attorneys' Fees and Other Costs. The Debtor agrees to bear all costs, fees and expenses including court costs and reasonable expenses (including reasonable attorneys' fees and disbursements) for legal services of or incidental to the enforcement of any provisions hereof (whether incurred during the continuance of an Event of Default or by the Mortgagee or any Holders of the Bonds), or enforcement, compromise or settlement of any of the collateral pledged hereunder, and for the curing thereof, or defending or asserting the rights and claims of the Mortgagee in respect thereof, by litigation or otherwise, and will pay to the Mortgagee any such expenses incurred, and such expenses shall be deemed part of the Obligations secured by this Mortgage and shall be collectible in like manner as the Obligations secured by this Mortgage, and until so paid shall bear interest at a rate being the lesser of (i) eighteen percent (18%) per annum or (ii) the highest rate permitted under the applicable usury law. All rights and remedies of the Mortgagee shall be cumulative and may be exercised singly or concurrently.

Section 5.16. No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Mortgage should be breached by the Debtor and thereafter waived by the Mortgagee, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the Mortgagee. No course of dealing between the Issuer and/or the Debtor and/or any other Person or any delay or omission on the part of the Mortgagee in exercising any rights hereunder shall operate as a waiver.

Section 5.17. Application of Proceeds. All proceeds derived through the exercise of any remedies or the commencement of any proceedings under this Mortgage shall be applied in accordance with Section 8.03 of the Indenture.

Section 5.18. Waiver of Moratorium. The Debtor will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, or the exemption from execution from sale of any or all of the property, now or any time hereafter enacted or enforced, nor claim, take or insist upon the benefit of any law now or hereafter enacted or enforced providing for the valuation or appraisal of the Mortgaged Property or any part thereof prior to any sale or sales thereof which may be made pursuant to any provisions herein or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after any sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted or enforced to redeem the property so sold or any part thereof. The Debtor, to the extent permitted by law, hereby expressly waives the benefit or advantage of any such law or laws and covenants not to delay or impede the execution of any power herein granted or delegated to the Mortgagee.

Section 5.19. Waiver of Notice. The Debtor shall not be entitled to any notices of any nature whatsoever from the Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by the Mortgagee to the Debtor, and the Debtor hereby expressly waives the right to receive any notice from the Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of such notice.

ARTICLE VI

LIMITATIONS ON LIABILITY

Section 6.1. No Liability of Debtor's Members, Managers, Officers, Directors, Employees and Agents. It is agreed that the members, managers, directors, officers, employees and agents of the Debtor shall have no personal liability hereunder. All covenants, stipulations, promises, agreements and obligations of the Debtor contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the Debtor and not of any member, manager, director, officer, employee or agent of the Debtor in his individual capacity, and no recourse shall be had hereunder for the payment of the principal of any debt or interest thereon or any of the Obligations or for any claim based thereon or hereunder against any member, manager, director, officer, employee or agent of the Debtor or any natural person executing this Mortgage.

Section 6.2. Usury Laws. This Mortgage and all other Security Documents are subject to the express condition that at no time shall the Issuer or the Debtor be obligated or required to pay interest on the principal balance due under the Obligations at a rate which could subject the holder of the Obligations to either civil or criminal liability as a result of being in excess of the maximum interest rate which the Issuer or the Debtor, as applicable, is permitted by law to contract or agree to pay. If by the terms of this Mortgage or any of the other Security Documents, the Issuer or the Debtor is at any time required or obligated to pay interest on the principal balance due under the Obligations at a rate in excess of such maximum rate, the rate of interest under the Obligations shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate.

ARTICLE VII

MISCELLANEOUS

Section 7.1. Applicability of Section 13 of the Lien Law. This Mortgage is given in order to secure funds to pay for the Project and by reason thereof, it is intended that this Mortgage shall be superior to any laborers', mechanics' or materialmen's liens which may be placed upon the Mortgaged Property subsequent to the recordation hereof. The Debtor shall, therefore, in compliance with Section 13 of the New York Lien Law, receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvements of the Facility Realty and shall apply the same first to the payment of the cost of the improvements of the Facility Realty before using any part of the total of the same for any other purpose.

Section 7.2. No Merger. It is the intention of this Mortgage that if the Mortgagee shall at any time hereafter acquire title to all or any portion of the Mortgaged Property, or any interest therein or lien thereon under any other mortgage or instrument, then, and until the Obligations have been paid in full or otherwise discharged or satisfied in accordance with their terms, the interest of the Mortgagee hereunder and the security interest created by this Mortgage shall not merge or become merged in or with the estate and interest of the Mortgagee as the holder and owner of title to all or any portion of the Mortgaged Property, or in or with the interest of the Mortgagee under or the lien of such other mortgage or instrument, and that, until such payment, discharge or satisfaction, the estate of the Mortgagee in the Mortgaged Property and the security interest created by this Mortgage and the interest of the Mortgagee hereunder shall continue in full force and effect to the same extent as if the Mortgagee had not acquired title to all or any portion of the Mortgaged Property or any other interest therein or lien thereon. If, however, the Mortgagee shall consent to such merger or if such merger shall nevertheless occur without its consent, then this Mortgage shall attach to, and cover and be a conveyance of the fee title or any other estate, title or interest in the Mortgaged Property acquired by the Debtor, and the same shall be considered as granted, released, assigned, transferred, pledged, conveyed and set over to the Mortgagee and this Mortgage spread to cover such estate with the same force and effect as though specifically herein granted, released, assigned, transferred, pledged, conveyed, set over and spread, provided, however, the Debtor shall pay any and all transfer, recording or other taxes in connection therewith.

Section 7.3. This Mortgage Constitutes A Commercial Transaction. THE DEBTOR ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS MORTGAGE IS A PART IS A COMMERCIAL TRANSACTION, AND HEREBY VOLUNTARILY AND KNOWINGLY WAIVES, TO THE EXTENT PERMITTED BY LAW, ITS RIGHTS TO NOTICE AND HEARING AS ALLOWED UNDER ANY STATE OR FEDERAL LAW OR OTHER RIGHT WITH RESPECT TO ANY PREJUDGMENT REMEDY OR OTHER RIGHT WHICH THE MORTGAGEE MAY DESIRE TO USE. FURTHER, THE DEBTOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY LAW, THE BENEFITS OF ALL PRESENT AND FUTURE VALUATION, APPRAISEMENT, HOMESTEAD, EXEMPTION, STAY, REDEMPTION AND MORATORIUM LAWS.

Section 7.4. Consents. Wherever in this Mortgage the prior consent of the Mortgagee is required, the consent of the Mortgagee given as to one such transaction shall not be deemed to be a waiver of the right to require such consent to future or successive transactions. Any such consents shall be in writing.

Section 7.5. Service of Process. The Debtor represents that it is subject to service of process in the State and covenants that it will remain so subject until all obligations, covenants and agreements of the Debtor under this Mortgage shall be satisfied and met. If for any reason the Debtor should cease to be so subject to service of process in the State, the Debtor hereby irrevocably consents to the service of all process, pleadings, notices or other papers in any judicial proceeding or action by designating and appointing [Director of Operations] of the Institution at 677 East 141st Street, Bronx, New York 10454, as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Debtor as a result of any of its obligations under this Mortgage. If such appointed agent shall cease to act or otherwise cease to be subject to service of process in the State, the Debtor hereby irrevocably designates and appoints the Secretary of State of the State of New York as its agent upon whom may be served all process, pleadings, notices or other papers which may be served upon the Debtor as a result of any of its obligations under this Mortgage; provided, however, that the service of such process, pleadings, notices or other papers shall not constitute a condition to the Debtor's obligations hereunder.

For such time as any of the obligations, covenants and agreements of the Debtor under this Mortgage remain unsatisfied, the Debtor's agent(s) designated in this Section 7.5 shall accept and acknowledge on the Debtor's behalf each service of process in any such suit, action or proceeding brought in any such court. The Debtor agrees and consents that each such service of process upon such agents and written notice of such service to the Debtor in the manner set forth in Section 7.6 shall be taken and held to be valid personal service upon the Debtor whether or not the Debtor shall then be doing, or at any time shall have done, business within the State and that each such service of process shall be of the same force and validity as if service were made upon the Debtor according to the laws governing the validity and requirements of such service in the State, and waives all claim of error by reason of any such service.

Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Debtor or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Debtor.

Section 7.6. Notices. All notices, requests, consents, demands and other communications to any party hereunder or any other Person specified herein shall be in writing (including bank wire, telecopy or similar writing) and shall be given to such party or other Person, addressed to it, at its address or telecopy number set forth below or such other address or telecopy number as such party or other Person may hereafter specify for the purpose by notice to the other parties or such other Persons. Each such notice, request, consent or demand or other communication shall be if sent (i) by registered or certified United States mail, return receipt requested and postage prepaid, (ii) by a nationally recognized overnight delivery service for overnight delivery, charges prepaid or (iii) by hand delivery, addressed, as follows:

| <u>Party</u> | <u>Address</u> |
|----------------|---|
| To the Debtor | <p>Friends of Academic Leadership CS, LLC 677 East 141st Street Bronx, New York 10454 Attention: President Telephone: () - - Facsimile: () - -</p> <p>with a copy to</p> <p>Harris Beach PLLC 333 Earle Ovington Blvd Uniondale, NY 11553 Attention: _____, Esq. Telephone: () - - Facsimile: () - -</p> |
| To the Issuer | <p>Build NYC Resource Corporation One Liberty Plaza, 165 Broadway, New York, New York 10006 Attention: General Counsel (with a copy to the Executive Director of the Issuer at the same address) Telephone: (212) 312-3563 Facsimile: (212) 312-3912</p> |
| To the Trustee | <p>The Bank of New York Mellon 101 Barclay Street Street, Floor 7W New York, New York 10286 Attention: Corporate Trust Administration Telephone: () - - Facsimile: () - -</p> |

Any party hereunder may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted for overnight delivery by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder.

Section 7.7. Consent to Jurisdiction. The Debtor irrevocably and unconditionally (i) agrees that any suit, action or other legal proceeding arising out of this Mortgage or any other Project Document, the Facility, the Project, the relationship between the

Issuer and the Debtor, the Debtor's ownership, use or occupancy of the Facility and/or any claim for injury or damages may be brought in the courts of record of the State in New York County or the United States District Court for the Southern District of New York; (ii) consents to the jurisdiction of each such court in any such suit, action or proceeding; (iii) waives any objection which it may have to the venue of any such suit, action or proceeding in such courts; and (iv) waives and relinquishes any rights it might otherwise have (w) to move to dismiss on grounds of forum non conveniens, (x) to remove to any federal court other than the United States District Court for the Southern District of New York, and (y) to move for a change of venue to a New York State Court outside New York County.

If the Debtor commences any action against the Mortgagee in a court located other than the courts of record of the State in New York County or the United States District Court for the Southern District of New York, the Debtor shall, upon request from the Mortgagee, either consent to a transfer of the action or proceeding to a court of record of the State in New York County or the United States District Court for the Southern District of New York, or, if the court where the action or proceeding is initially brought will not or cannot transfer the action, the Debtor shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of record of the State in New York County or the United States District Court for the Southern District of New York.

Section 7.8. Mortgage for Benefit of Issuer, Debtor and Trustee. The covenants and agreements contained in this Mortgage (including all indemnities set forth herein) shall run with the land and bind the Debtor and its heirs, executors, administrators, legal representatives, successors and assigns and each Person constituting the Debtor, and all subsequent owners, encumbrancers and tenants of the Mortgaged Property, or any part thereof, and shall inure to the benefit of the Issuer and the Trustee, their respective successors and assigns, and all subsequent beneficial owners of this Mortgage, and survive the foreclosure of this Mortgage.

Section 7.9. Authorization. The execution of this Mortgage has been duly authorized by the appropriate governing body of the Debtor.

Section 7.10. Amendments and Modifications. This Mortgage shall be amended, modified or supplemented only by a written agreement executed by the Debtor and the Mortgagee and, in any event, only in accordance with the Indenture.

Section 7.11. Applicable Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of New York, without regard or giving effect to the principles of conflicts of laws thereof.

Section 7.12. Date of Mortgage for Reference Purposes Only. The date of this Mortgage shall be for reference purposes only and shall not be construed to imply that this Mortgage was executed on the date first above written. This Mortgage was executed and delivered on the Closing Date.

Section 7.13. Incorporation of Certain Indenture Provisions. All provisions of Article IX of the Indenture shall be construed as extending to and including all of the rights,

duties and obligations imposed upon the Trustee under this Mortgage as fully and for all purposes as if said Article IX were contained in this Mortgage.

Section 7.14. Entire Agreement; Counterparts. This Mortgage constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof (other than any Project Documents) and may be executed simultaneously in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Section 7.15. Severability. If any one or more of the provisions of this Mortgage shall be ruled illegal or invalid by any court of competent jurisdiction, the illegality or invalidity of such provision(s) shall not affect any of the remaining provisions of this Mortgage, but this Mortgage shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 7.16. Waiver of Jury Trial. The Debtor hereby expressly waives, to the extent permitted by law, the right to assert a counterclaim in any action or proceeding brought against it by the Mortgagee, and waives, to the extent permitted by law, all rights to a trial by jury on any cause of action or proceeding brought by any party hereto against the other or in any counterclaim asserted by the Mortgagee against the Debtor, or in any matters whatsoever arising out of or in any way connected with this Mortgage or the Obligations, the Debtor's obligations hereunder, the Facility, the Mortgaged Property, the Project, the relationship between the Issuer and the Debtor, the Debtor's ownership, use or occupancy of the Facility and/or any claim for injury or damages.

Section 7.17. Property Not Covered. This Mortgage does not cover property principally improved or to be improved by one or more structures containing in the aggregate not more than six individual residential dwelling units, each having its own separate cooking facilities.

Section 7.18. Assignment of Mortgage. Upon the execution and delivery by the Issuer of the Assignment of Mortgage, all references within this Mortgage to the "Mortgagee" shall be deemed to refer to the Trustee.

IN WITNESS WHEREOF, the Debtor has duly executed this Mortgage as of the date first above written.

**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC, as Debtor**

By: _____

Name:

Title:

EXHIBIT A

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

DESCRIPTION OF LAND

On the ____ day of _____, in the year two thousand _____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that [he][she] executed the same in [his][her] capacity, and that by [his][her] signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT B

DESCRIPTION OF FACILITY PERSONALTY

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APPENDIX E

FORM OF BOND COUNSEL OPINION

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June 16, 2021

Build NYC Resource Corporation
New York, New York

**Re: Build NYC Resource Corporation
\$17,770,000 Tax-Exempt Revenue Bonds
(Academic Leadership Charter School Project), Series 2021**

Ladies and Gentlemen:

We have acted as bond counsel to the Build NYC Resource Corporation (New York, New York) (the **“Issuer”**), in connection with the issuance on the date hereof by the Issuer of its Tax-Exempt Revenue Bonds (Academic Leadership Charter School Project), Series 2021, in the aggregate principal amount of \$17,770,000 (the **“Bonds”**). The Bonds are authorized to be issued pursuant to:

- (i) Section 1411 of the New York Not-for-Profit Corporation Law (the **“Act”**),
- (ii) the Bond Resolution duly adopted by the Issuer on July 16, 2019 (the **“Resolution”**), and
- (iii) the Indenture of Trust, dated as of June 1, 2021 (the **“Indenture”**), by and between the Issuer and The Bank of New York Mellon, as trustee for the benefit of the Holders of the Bonds (the **“Trustee”**).

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in Section 1.01 of the Indenture.

The Issuer will loan the proceeds of the Bonds to Friends of Academic Leadership CS, LLC (the **“Institution”**), a limited liability company formed under the laws of the State of New York, whose sole member is Academic Leadership Charter School, a not-for-profit education corporation incorporated under Article 56 of the New York Education Law (the **“School”**), pursuant to the terms of a Loan Agreement, dated as of June 1, 2021 (the **“Loan Agreement”**), between the Issuer and the Institution. The Institution has evidenced its obligation to make loan payments to the Issuer by the issuance and delivery of a certain Promissory Note, dated the date hereof (the **“Note”**), from the Institution to the Issuer and endorsed by the Issuer to the Trustee.

The Institution will use the proceeds of the Bonds for (1) the design, construction, furnishing and equipping of an approximately 60,000 square foot, seven story building plus sub-surface garage and rooftop play space with a maximum physical capacity for 600 students in grades 3 to 5

(collectively, the “**New Facility**”) on an approximately .29 acre parcel of land located at 356-62 East 139th Street, Bronx, New York 10454, the making of renovations to such New Facility, and the acquisition and installation of machinery and equipment in connection therewith, all for use in the providing of services to the School, and (2) the payment of certain costs of issuing the Bonds (collectively, the “**Project**”).

In order to secure the Bonds, the Institution has granted a mortgage lien on and security interest in the Facility Realty and the Facility Personalty to the Issuer and the Trustee pursuant to a mortgage lien on and security interest in its lease hold interest in the New Facility Realty and New Facility Personalty pursuant to a Mortgage and Security Agreement (Building Loan), dated as of June 1, 2021 (the “**Mortgage**”), from the Institution to the Issuer and the Trustee, as assigned by the Issuer to the Trustee for the benefit of the Holders of the Bonds, pursuant to an Assignment of Mortgage and Security Agreement (Building Loan), dated June 1, 2021 (the “**Assignment**”), from the Issuer to the Trustee.

The Issuer, the Institution and the School have entered into a Tax Regulatory Agreement, dated the date hereof (the “**Tax Regulatory Agreement**”), as acknowledged by the Trustee, in which the Issuer, the Institution and the School have made certain representations and covenants, established certain conditions and limitations and created certain expectations, relating to compliance with the requirements imposed by the Internal Revenue Code of 1986, as amended (the “**Code**”).

Robert W. Baird & Co. (the “**Underwriter**”) has agreed to underwrite the Bonds pursuant to the terms of a Bond Purchase Agreement, dated June 2, 2021 (the “**Bond Purchase Agreement**”), between the Underwriter and the Institution.

The Bonds are dated the date hereof, and bear interest from the date thereof pursuant to the terms of the Bonds. The Bonds are subject to prepayment or redemption prior to maturity, as a whole or in part, at such time or times, under such circumstances and in such manner as is set forth in the Bonds and the Indenture.

As bond counsel, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates and documents (including all documents constituting the Record of Proceedings with respect to the issuance of the Bonds as we have deemed necessary or appropriate for the purposes of the opinions rendered below). In such examination, we have assumed the genuineness of all signatures, the authenticity and due execution of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies. As to any facts material to our opinion, without having conducted any independent investigation, we have relied upon, and assumed the accuracy and truthfulness of, the aforesaid instruments, certificates and documents.

In rendering the opinions set forth below, we have relied upon, among other things, certain representations and covenants made by the parties in this transaction including: (i) the Institution in (a) the Bond Purchase Agreement; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the Letter of Representation and Indemnification, dated of even date herewith; and (e) the Bond Counsel Due Diligence Questionnaire submitted to us by the Institution, as amended and supplemented; and (ii) the Issuer in (a) the Indenture; (b) the Tax Regulatory Agreement; (c) the Loan Agreement; (d) the Assignment; (e) the Certificate of Determination, dated the date hereof; and (f) the General Certificate of the Issuer, dated the date

hereof. We call your attention to the fact that there are certain requirements with which the Issuer and the Institution must comply after the date of issuance and delivery of the Bonds in order for the interest on the Bonds to remain excluded from gross income for federal income tax purposes. Noncompliance with such requirements could cause the interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds.

In addition, in rendering the opinions set forth below, we have relied upon the opinions of the General Counsel of the Issuer, Meredith J. Jones, Esq., counsel to the Institution and the School, Harris Beach PLLC, Uniondale, New York (the “**Opinion of Institution’s Counsel**”) and counsel to the Trustee, Paparone Law PLLC, New York, New York, all of even date herewith. Copies of the aforementioned opinions are contained in the Record of Proceedings.

Based upon and subject to the foregoing, we are of the opinion that:

1. The Issuer is a duly organized and existing corporate entity constituting a local development corporation of the State of New York.
2. The Issuer is duly authorized to issue, execute, sell and deliver the Bonds, for the purpose of paying the costs described above.
3. The Resolution has been duly adopted by the Issuer and is in full force and effect.
4. The Indenture, the Bonds, the Tax Regulatory Agreement, the Loan Agreement, the Assignment, the Certificate of Determination and the General Certificate of the Issuer (the “**Issuer Documents**”) have been duly authorized, executed and delivered by the Issuer.
5. Assuming the due authorization, execution and delivery of the Issuer Documents by the other parties thereto (as applicable), the Issuer Documents are legal, valid and binding obligations of the Issuer, enforceable against the Issuer in accordance with their respective terms.
6. The Bonds have been duly authorized, executed and delivered by the Issuer and are legal, valid and binding special obligations of the Issuer payable solely from the revenues derived from the Loan Agreement, enforceable against the Issuer in accordance with their respective terms.
7. The Bonds do not constitute a debt of the State of New York or of The City of New York and neither the State of New York nor The City of New York will be liable thereon.
8. Under existing law, assuming compliance with the tax covenants described herein and the accuracy of the aforementioned representations and certifications, interest on the Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Code. We are also of the opinion that such interest is not treated as a preference item in calculating the alternative minimum tax imposed under the Code.

In rendering this opinion, we are relying on (i) covenants made by the Issuer, the Institution and the School in the Indenture, the Loan Agreement and the Tax Regulatory Agreement, as applicable, to maintain the exclusion from gross income of the interest on the Bonds pursuant to Section 103 of the Code, (ii) certain representations and certifications of the Issuer, the Institution and the School in the Indenture, the Loan Agreement and the Tax

Regulatory Agreement, as applicable, and (iii) the Opinion of Institution's Counsel, as to all matters concerning the status of the Institution as a disregarded entity for federal income tax purposes, the School as an organization described in Section 501(c)(3) of the Code and exempt from federal income tax under Section 501(a) of the Code and that the financing of the Project and the expected use of the Facility by the School is in furtherance of the 501(c)(3) purposes of the School. We have not independently verified the accuracy of those certifications and representations or that opinion. We note that the Opinion of Institution's Counsel is subject to a number of qualifications and limitations. Failure of the School (i) to be organized and operated in accordance with the Internal Revenue Service's requirements for the maintenance of the status of the School as an organization described in Section 501(c)(3) of the Code and (ii) to use the Facility in furtherance of the 501(c)(3) purposes of the School may result in the interest on the Bonds being included in gross income for federal income tax purposes, possibly from the date of issuance of the Bonds.

9. Interest on the Bonds is exempt from personal income taxes imposed by the State of New York or any political subdivision of the State of New York (including The City of New York), assuming compliance with the tax covenants and the accuracy of the representations and certifications described in paragraph 8 herein.

Except as stated in paragraphs 8 and 9, we express no opinion as to any other federal, state or local tax consequences of the ownership or disposition of the Bonds. Furthermore, we express no opinion as to any federal, state or local tax law consequences with respect to the Bonds, or the interest thereon, if any action is taken with respect to the Bonds or the proceeds thereof upon the advice or approval of other counsel.

10. The sale of the Bonds and the issuance and delivery on the date hereof of the Bonds, under the circumstances contemplated by the Indenture, do not require registration of the Bonds under the Securities Act of 1933, as amended, and the execution and delivery of the Indenture, under the circumstances contemplated thereby, does not require qualification of the Indenture under the Trust Indenture Act of 1939, as amended.

The foregoing opinions are qualified to the extent that the enforceability of the Bonds and the Issuer Documents may be limited by bankruptcy, insolvency or other laws or enactments now or hereafter enacted by the State of New York or the United States affecting the enforcement of creditors' rights and by restrictions on the availability of equitable remedies and to the extent, if any, that enforceability of the indemnification provisions of such documents may be limited under law. We express no opinion with respect to the availability of any specific remedy provided for in any of the bond documents.

In rendering the foregoing opinions, we are not passing upon and do not assume any responsibility for the accuracy, completeness, sufficiency or fairness of any documents, information or financial data supplied by the Issuer, the Institution, or the Trustee in connection with the Bonds, the Issuer Documents and the Project, and we make no representation that we have independently verified the accuracy, completeness, sufficiency or fairness of any such documents, information or financial data.

We express no opinion with respect to the registration requirements under the Securities Act of 1933, as amended, the registration or qualification requirements under the Trust Indenture Act of

1939, as amended, the registration, qualification or other requirements of State Securities laws or the availability of exemptions therefrom.

We express no opinion as to the sufficiency of the description of the Facility Realty or the Facility Personalty contained in the Loan Agreement or as to the adequacy, perfection or priority of any security interest in any collateral securing the Bonds.

We express no opinion with respect to whether the Issuer, the Institution and the School (i) have complied with environmental laws, (ii) have obtained any or all necessary governmental approvals, consents or permits, or (iii) have complied with the New York Labor Law or other applicable laws, rules, regulations, orders and zoning and building codes, all in connection with the renovation, construction, equipping, furnishing and operation of the Facility.

The opinions expressed herein may be relied upon by the addressee and may not be relied upon by any other person without our prior written consent.

Yours truly,

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APPENDIX F

FORM OF CONTINUING DISCLOSURE AGREEMENT

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CONTINUING DISCLOSURE AGREEMENT

AMONG

FRIENDS OF ACADEMIC LEADERSHIP CS, LLC,

AS BORROWER

AND

ACADEMIC LEADERSHIP CHARTER SCHOOL,

AS SCHOOL

AND

**SCHOOL IMPROVEMENT PARTNERSHIP,
AS CONTINUING DISCLOSURE AGENT**

DATED AS OF JUNE 1, 2021

RELATING TO:

**\$17,770,000
BUILD NYC RESOURCE CORPORATION
REVENUE BONDS, SERIES 2021
(ACADEMIC LEADERSHIP CHARTER SCHOOL PROJECT)**

**CONTINUING DISCLOSURE AGREEMENT FOR THE PURPOSE OF PROVIDING
CONTINUING DISCLOSURE INFORMATION
UNDER SECTION (B) (5) OF SEC RULE 15c2-12, AS AMENDED**

This Continuing Disclosure Undertaking Agreement (this "Agreement") is entered into by Friends of Academic Leadership CS, LLC (the "Borrower"), Academic Leadership Charter School (the "School") and School Improvement Partnership, LLC, as continuing disclosure agent (the "Continuing Disclosure Agent"), in connection with the issuance of \$17,770,000 Build NYC Resource Corporation Revenue Bonds (Academic Leadership Charter School Project) Series 2021 (the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust dated as of June 1, 2021 (the "Indenture"), between Build NYC Resource Corporation and The Bank of New York Mellon, as trustee (the "Trustee").

In consideration of the purchase of such Bonds by the owners thereof, the Borrower and the School hereby covenant and agree as follows:

Section 1. Purpose of this Agreement. This Agreement is entered into by the Borrower and the School as of the date set forth below, for the benefit of the holders and owners (the "Bondholders") of the Bonds and in order to assist the Participating Underwriter (as defined below) in complying with the requirements of the Rule (as defined below). The Borrower and the School represent that they will be the only obligated person (as defined in the Rule) with respect to the Bonds at the time the Bonds are delivered to the Participating Underwriter and that no other person is expected to become an obligated person at any time after the issuance of the Bonds.

Section 2. Definitions. The terms set forth below shall have the following meanings in this Agreement, unless the context clearly otherwise requires. Capitalized terms used but not defined herein shall have the meanings assigned thereto in the Loan Agreement.

"Annual Financial Information" means (i) enrollment, attendance, waiting list, and academic performance data for the School for the current year in the form of Exhibit I hereto, (ii) a copy of the audit report of the School or combined with the Borrower certified by independent public accountants, and (iii) a copy of the certificate addressing compliance with all financial covenants required by the Lease Agreement as set forth in Exhibit IV hereto.

"Annual Financial Information Disclosure" means the dissemination of disclosure concerning Annual Financial Information and the dissemination of the Audited Financial Statements as set forth in Section 4(a).

"Audited Financial Statements" means the audited financial statements of the School or combined with the Borrower, prepared in accordance with generally accepted accounting principles in the United States as in effect from time to time, and shall include consolidating schedules reflecting financial statements for the Borrower and the School.

"Commission" means the Securities and Exchange Commission.

"Continuing Disclosure Agent" means, initially, School Improvement Partnership, LLC, its successors and assigns, and, thereafter, any agent designated as such in writing by the Borrower and which has filed with the Borrower a written acceptance of such designation, and such agent's successors and assigns.

"EMMA" means the Electronic Municipal Market Access facility for municipal securities disclosure of the MSRB.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fiscal Year" means each year ending June 30, commencing with the Fiscal Year ending June 30, 2021.

"Lease Agreement" means the Lease Agreement dated as of June 1, 2021 between the Borrower and the School.

"Loan Agreement" means the Loan Agreement dated as of June 1, 2021 between the Issuer and the Borrower.

"*Material Event*" means the occurrence of any of the events with respect to the Bonds set forth in Exhibit III.

"*Material Events Disclosure*" means dissemination of a notice of a Material Event as set forth in Section 5 hereof.

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Other Financial Information*" means the information as set forth in Section 4(c).

"*Other Financial Information Disclosure*" means the dissemination of disclosure concerning the information as set forth in Section 4(c).

"*Participating Underwriter*" means each broker, dealer or municipal securities dealer acting as an underwriter in any primary offering of the Bonds.

"*Prescribed Form*" means, with regard to the filing of Annual Financial Information, Audited Financial Statements, Other Financial Information and notices of Material Events with the MSRB at www.emma.msrb.org (or such other address or addresses as the MSRB may from time to time specify), such electronic format, accompanied by such identifying information, as shall have been prescribed by the MSRB and which shall be in effect on the date of filing of such information.

"*Quarterly Financial Information*" means the information as set forth in Section 4(b).

"*Quarterly Financial Information Disclosure*" means the dissemination of disclosure concerning the information as set forth in Section 4(b).

"*Rule*" means Rule 15c2-12 adopted by the Commission under the Exchange Act, as the same may be amended from time to time.

"*State*" means the State of New York.

"*State Compliance Office*" means the SUNY Charter Schools Institute, or any other body subsequently authorized by the State of New York to grant, revoke or suspend charters.

"*Undertaking*" means the obligations of the Borrower and the School pursuant to Sections 4 and 5.

Section 3. CUSIP Number/Official Statement. The CUSIP Number of the final maturity of the Bonds is [CUSIP NUMBER]. The Official Statement relating to the Bonds is dated [PURCHASE DATE] (the "Official Statement").

Section 4. Annual Financial Information Disclosure; Quarterly Financial Information Disclosure; Other Disclosure.

- (a) Annual Financial Information and Audited Financial Statements. Subject to Section 9 of this Agreement, the Borrower and the School hereby covenant that each will, or will cause the Continuing Disclosure Agent to, disseminate the Annual Financial Information and the Audited Financial Statements (in the form and by the dates set forth below and in Exhibit I hereto) by delivering such Annual Financial Information and the Audited Financial Statements to the MSRB no later than 210 days after the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2021. It shall be sufficient if the Borrower or the School provides to the MSRB any or all

the Annual Financial Information Disclosure by specific reference to documents previously provided to the MSRB or the Commission and, if such document is an Official Statement within the meaning of the Rule, available from the MSRB.

If any part of the Annual Financial Information can no longer be generated because the operations to which it is related have been materially changed or discontinued, the Borrower or the School will, or will cause the Continuing Disclosure Agent to, disseminate a statement to such effect as part of its Annual Financial Information for the year in which such event first occurs.

If any amendment is made to this Agreement, the Annual Financial Information for the year in which such amendment is made (or in any notice or supplement provided to the MSRB) shall contain a narrative description of the reasons for such amendment and its impact on the type of information being provided.

(b) Quarterly Financial Information. Subject to Section 9 of this Agreement, the Borrower and the School shall, or shall cause the Continuing Disclosure Agent to, disseminate the Quarterly Financial Information (in the form and by the dates set forth below and in Exhibit II hereto) by delivering such Quarterly Financial Information to the MSRB within 60 days after the close of each such quarter, commencing with the quarter ending September 30, 2021.

(c) Disclosure in Prescribed Form. The Borrower and the School are required to deliver such information in Prescribed Form and by such time so that such entities receive the information by the dates specified. Once sent to the Continuing Disclosure Agent, such information is the property of the Continuing Disclosure Agent.

Section 5. Material Events Disclosure. Subject to Section 9 of this Agreement, the Borrower and the School hereby covenant that each will, or will cause the Continuing Disclosure Agent to, disseminate in a timely manner, not in excess of 10 business days after the occurrence of the event, Material Events Disclosure to the MSRB in Prescribed Form. Notwithstanding the foregoing, notice of optional or unscheduled redemption of any Bonds or defeasance of any Bonds need not be given under this Agreement any earlier than the notice (if any) of such redemption or defeasance is given to the owners of the Bonds pursuant to the Indenture. From and after the Effective Date, the Borrower and the School are required to deliver such Material Events Disclosure in the same manner as provided by Section 4 of this Agreement.

Section 6. Duty to Update EMMA/MSRB. The Borrower and the School shall determine, in the manner each deems appropriate, whether there has occurred a change in the MSRB's e-mail address or filing procedures and requirements under EMMA each time it is required to file information with the MSRB.

Section 7. Consequences of Failure of the Borrower and the School to Provide Information. The Borrower and the School shall, or shall cause the Continuing Disclosure Agent to, give notice in a timely manner, not in excess of 10 business days after the occurrence of the event, to the MSRB in Prescribed Form of any failure to provide Annual Financial Information Disclosure when the same is due hereunder.

A default under this Agreement shall not be deemed an Event of Default under the Indenture or any other agreement, and the sole remedy under this Agreement in the event of any failure of the Borrower or the School to comply with this Agreement shall be an action to compel performance.

If there exists a Continuing Disclosure Agent and such Continuing Disclosure Agent is unable to verify that any information required to be provided to the MSRB by Subsection 4(a) hereof by the date

required therein, the Continuing Disclosure Agent shall send a notice to the MSRB and the Participating Underwriter in substantially the form attached hereto as Exhibit V.

Section 8. Amendments; Waiver. Notwithstanding any other provision of this Agreement, the Borrower, the School, and the Continuing Disclosure Agent, if any, may amend this Agreement, and any provision of this Agreement may be waived, if:

- (a) The amendment or waiver is made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of the Borrower and the School or type of business conducted;
- (b) This Agreement, as amended, or the provision, as waived, would have complied with the requirements of the Rule at the time of the primary offering, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances;
- (c) The amendment or waiver does not materially impair the interests of the Bondholders of the Bonds, as determined either by parties unaffiliated with the Issuer, the Borrower, or the School (such as the Trustee) or by an approving vote of the Bondholders of the Bonds holding a majority of the aggregate principal amount of the Bonds (excluding Bonds held by or on behalf of the Borrower and the School or any affiliate thereof pursuant to the terms of the Indenture at the time of the amendment; or
- (d) The amendment or waiver is otherwise permitted by the Rule.

Section 9. Termination of Undertaking. The Undertaking of the Borrower and the School shall be terminated hereunder when the Borrower and the School shall no longer have any legal liability for any obligation on or relating to the repayment of the Bonds. The Borrower and the School shall, or shall cause the Continuing Disclosure Agent to, give notice to the MSRB in a timely manner and in Prescribed Form if this Section is applicable.

Section 10. Continuing Disclosure Agent.

- a) The Borrower and the School have appointed School Improvement Partnership as its Continuing Disclosure Agent, and may, from time to time, appoint or engage a different Continuing Disclosure Agent to assist it in carrying out its obligations under this Agreement, and may discharge any such Continuing Disclosure Agent, with or without appointing a successor Continuing Disclosure Agent. The Continuing Disclosure Agent shall not be responsible in any manner for the content of any notice or report prepared by the Borrower and the School pursuant to this Agreement. Notwithstanding anything to the contrary herein, the Continuing Disclosure Agent shall not be responsible for any determination as to the adequacy of the contents or format of any Annual Financial Information Disclosure or Other Information Disclosure, and as to the materiality of any Material Event.
- b) The duties of the Continuing Disclosure Agent are to
 - (i) contact the Borrower and the School at least 30 days before each Quarterly and Annual Report are due under the Continuing Disclosure Agreement;
 - (ii) send the draft Template to Borrower and the School management, with those sections completed that can be obtained from publicly available data;
 - (iii) assist the Borrower and the School in completing the Template by its required filing date;

- (iv) once the completed Template and accompanying attachments are received by the Continuing Disclosure Agent, the Continuing Disclosure Agent will file a Report based solely on such information on EMMA;
 - (v) e-mail Alert to the Borrower and the School, the Participating Underwriter and the Trustee when any documents are filed on EMMA;
 - (vi) post notice on EMMA when the Borrower and the School misses a Continuing Disclosure filing deadline in the form set forth in Exhibit V;
 - (vii) post notice on EMMA when it receives notice of a Material Event at the Borrower and the School listed on Exhibit III; and
 - (viii) arrange investor calls as required under Section 16 hereof
- (c) The Continuing Disclosure Agent does not serve as an auditor, financial advisor, broker-dealer, or underwriter, is not providing “advice” under Dodd-Frank Wall Street Reform and Consumer Protection Act and does not certify the completeness or accuracy of the Template or any information given by the Borrower and the School-to-School Improvement Partnership for filing on EMMA.
- (d) [Reserved]
- (e) The Continuing Disclosure Agent is due a one-time \$5,000 set-up fee at closing, and \$5,000 annually payable in advance on the Closing Date and on each anniversary of the Closing Date, subject to Section 9 hereof. The Continuing Disclosure Agent’s annual fee may be adjusted from time to time by written notice from the Continuing Disclosure Agent to the Borrower and the School.

Section 11. Indemnification. The Borrower and the School will indemnify and save the Continuing Disclosure Agent, its officers, directors, employees and agents, harmless for, from and against any loss, expense and liabilities which the Continuing Disclosure Agent may incur arising out of or in the exercise or performance of the powers and duties of the Continuing Disclosure Agent pursuant to this Agreement and the applicable, related agency agreement, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the gross negligence or willful misconduct of the Continuing Disclosure Agent. The obligations of the Borrower and the School under this Section will survive resignation or removal of the Continuing Disclosure Agent and payment of the Bonds.

Section 12. Additional Information. Nothing in this Agreement shall be deemed to prevent the Borrower or the School from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any Annual Financial Information Disclosure, Quarterly Information Disclosure or notice of occurrence of a Material Event, in addition to that which is required by this Agreement. If the Borrower or the School chooses to include any information from any document or notice of occurrence of a Material Event in addition to that which is specifically required by this Agreement, the Borrower and the School shall not have any obligation under this Agreement to update such information or include it in any future disclosure or notice of the occurrence of a Material Event.

Section 13. Beneficiaries. This Agreement has been executed in order to assist the Participating Underwriter in complying with the Rule; however, this Agreement shall inure solely to the benefit of the

Borrower, the School, the Continuing Disclosure Agent, if any, the Trustee and the Bondholders of the Bonds, and shall create no rights in any other person or entity.

Section 14. Recordkeeping. The Borrower and the School shall maintain records of all Annual Financial Information Disclosure, Quarterly Information Disclosure and Material Events Disclosure, including the content of such disclosure, the names of the entities with whom such disclosure was filed and the date of filing such disclosure.

Section 15. Past Compliance. The Borrower and the School represent that it has complied with the requirements of each Continuing Disclosure Undertaking Agreement entered into by it pursuant to the Rule in connection with previous financings to which the Rule was applicable.

Section 16. Investor Calls.

- (a) Within thirty (30) days after the filing of the Annual Report, the Continuing Disclosure Agent shall arrange a conference call with Registered Owners, Beneficial Owners, and potential purchasers of the Bonds (the “Investor Call”), regarding performance of the Borrower for the period ending with the preceding June 30. The Continuing Disclosure Agent shall provide at least 7 days’ notice of such calls to EMMA accessible at <http://emma.msrb.org/>.
- (b) A failure to hold an Investor Call under Subsection 16(a) hereof shall not constitute an Event of Default hereunder and no notice must be filled on EMMA with respect to such failure.
- (c) The Investor Call shall include, but not be limited to:
 - (i) summary of the financial and operating results of the immediately preceding Fiscal Year;
 - (ii) school governance and charter status matters, such as the charter renewal process (if a renewal is pending within twelve (12) months of the date the call is held); significant details relating to any form of revocation, review or supervision plan on which a school charter is under by its authorizing entity, district and/or the state; and any changes in composition of the board, third-party managers (if any), the school(s) or within the leadership of the governing body of the School since the last call;
 - (iii) the use any Short-Term Indebtedness (such as cash flow financing, state aid notices or bank lines of credit) or new Long-Term Indebtedness incurred since the date of the immediately preceding Investor Call;
 - (iv) capital spending plans which the governing body of the School has taken official action;
 - (v) actual enrollment or mid-year budget cuts which required revisions to the annual budget;
 - (vi) if the School is subject to mid-year cuts in federal, state and/or local sources of funding, the impact on the School’s financial position and management’s responses to the cuts;
 - (vii) litigation (including any matters of criminal misconduct) against the School, its governing body, or employees of the School to the extent such action is expected to materially affect operations and/or school finances; and
 - (viii) casualty losses, to the extent daily operations of the School were disrupted for more than seven to ten (7 – 10) days, including information regarding the insurance coverage for such casualty losses.

Section 17. Assignment. The Borrower and the School shall not transfer its obligations under the Indenture, the Loan Agreement unless the transferee agrees to assume all obligations of the Borrower or the School under this Agreement or to execute a Continuing Disclosure Undertaking Agreement under the Rule.

Section 18. No Indebtedness of the State. No indebtedness of any kind incurred or created by the Borrower or the School shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the Borrower or the School shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions.

Section 19. Governing Law. This Agreement shall be governed by the laws of the State.

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**FRIENDS OF ACADEMIC LEADERSHIP CS,
LLC**, a New York limited liability corporation

By: _____
Name: _____
Title: _____

**ACADEMIC LEADERSHIP CHARTER
SCHOOL**, a New York nonprofit corporation

By: _____
Name: _____
Title: _____

Dated: as of [Date]

[Signature Page to Continuing Disclosure Undertaking Agreement]

**SCHOOL IMPROVEMENT PARTNERSHIP,
LLC, as Continuing Disclosure Agent**

By: _____

Name: Alan F. Wohlstetter

Title: President

Dated: as of [Date]

[Signature Page to Continuing Disclosure Undertaking Agreement]

EXHIBIT I

Annual Information

1. Financial Performance
 - a. Annual Audit
 - b. Debt Service Coverage Ratio covenant compliance with calculations for FY
 - c. Days Cash on Hand covenant compliance with calculations for FY
 - d. Budget (with assumptions detailed) vs. Actual, year-to-date for FY
 - e. Any recent or planned borrowings receiving preliminary approvals from the Board
2. Authorizer Relations
 - a. Charter expiration date
 - b. Material written communications from Authorizer regarding charter status
 - c. Contact person at the Authorizer
3. Sources of Revenue
 - a. State per-pupil payments, three-year history
 - b. An official communication regarding changes in per-pupil payments
 - c. Fundraising over past three years
4. Enrollment, Wait List and Academic Performance by Grade
 - a. Enrollment by grade (budgeted vs. actual vs. projections in Table B-2 in the Official Statement)
 - b. Comparative Assessment Results (Percentage Proficient or Advanced Proficient as set forth in Table B-6)
 - c. Wait List as set forth in Table B-3 in the Official Statement)
5. Has a Material Event under Rule 15c2-12 Occurred That Has Not Been Disclosed?
 - a. See Exhibit III
6. Officer's Certificate
 - a. See Exhibit IV

EXHIBIT II
Quarterly Information

1. Financial Performance
 - a. Balance sheet
 - b. Income Statement
 - c. Budget (with assumptions detailed) vs. Actual, year-to-date on a Quarterly Basis
2. Enrollment by Grade
 - a. Enrollment by grade
 - b. Wait List
3. Construction Update until Construction of the New Facility is completed
 - a. Has Expected Completion Date changed since closing
 - b. Percent of Project complete
 - c. Percent of Construction Budget spent
 - d. Percentage of Contingency spent
4. Has a Material Event under Rule 15c2-12 occurred that has not been disclosed?
 - a. See Exhibit III
5. Officer's Certificate
 - a. See Exhibit IV

EXHIBIT III

EVENTS WITH RESPECT TO THE BONDS FOR WHICH MATERIAL EVENTS DISCLOSURE IS REQUIRED

1. Principal and interest payment delinquencies
2. Nonpayment-related defaults if material
3. Unscheduled draws on debt service reserves reflecting financial difficulties
4. Unscheduled draws on credit enhancements reflecting financial difficulties
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security
7. Modifications to rights of security holders if material
8. Bond calls, if material, and tender offers
9. Defeasances
10. Release, substitution or sale of property securing repayment of the securities, if material
11. Rating changes
12. Bankruptcy, insolvency, receivership or similar event of the Borrower*
13. The consummation of a merger, consolidation or acquisition involving the Borrower or the sale of all or substantially all of the assets of the Borrower, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material
15. A (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) a guarantee of (i) or (ii), excluding municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the

* This event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Borrower in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Borrower, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Borrower.

MSRB consistent with the Rule (each, a "Financial Obligation"), if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Borrower or the School, any of which affect security holders, if material

16. Occurrence of a default, event of acceleration, termination event, modification of terms or other similar events under the terms of a Financial Obligation of the Borrower or the School, any of which reflect financial difficulties.

EXHIBIT IV

CERTIFICATE OF AUTHORIZED REPRESENTATIVE

Each of the undersigned, as the Authorized Representative of the Borrower and the Authorized Representative of the School, respectively, hereby certifies as of the date hereof that other than as described herein:

1. The information contained in the Report prepared on the date hereof is true and correct in all material respects.
2. The School is in compliance with the insurance requirements under the Bond Documents.
3. No Material Events as set forth in Exhibit III have occurred that have not been disclosed on EMMA.
4. As an authorized representative of the School, it is hereby certified that a review of the activities of the School during the preceding Fiscal Year of the School with respect to its performance under the Lease Agreement and the Tax Agreement have been made under my supervision.
5. The undersigned is familiar with the provisions of the Lease Agreement and the Tax Agreement and, to the best of my knowledge, based upon such review and familiarity, the Lessee has fulfilled all of its obligations thereunder throughout the prior Fiscal Year, and there have been no defaults under the Lease Agreement or the Tax Agreement.

EXHIBIT V

**FORM OF
NOTICE TO THE MSRB OF FAILURE TO FILE [_____]**

Name of Issuer: Build NYC Resource Corporation

Name of Issue: \$17,770,000 Build NYC Resource Corporation Revenue Bonds
(Academic Leadership Charter School Project) Series 2021 (the
"Bonds")

Name of Borrower: Friends of Academic Leadership CS, LLC

Name of School: Academic Leadership Charter School

Date of Issuance: June 16, 2021

NOTICE IS HEREBY GIVEN that the Borrower has not provided [_____] with respect to the above-named Bonds as required by the Continuing Disclosure Undertaking Agreement with respect to the Bonds. The Borrower has notified the Continuing Disclosure Agent that it anticipates [_____] will be filed by _____, 20__.

Dated: _____, 20__.

SCHOOL IMPROVEMENT PARTNERSHIP, LLC,
as Continuing Disclosure Agent

By: _____
Authorized Signatory

cc: Borrower

APPENDIX G

BOOK-ENTRY ONLY SYSTEM

The information in this APPENDIX G concerning DTC (as defined below), Cede & Co. and the Book-Entry System has been furnished by DTC for use in disclosure documents such as this Official Statement. The Issuer and the Underwriter believe such information to be reliable, but neither the Issuer nor the Underwriter takes any responsibility for the accuracy or completeness thereof.

The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the securities discussed in the body of this Official Statement (the “**Series 2021 Bonds**”). The Series 2021 Bonds will be issued as fully registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Series 2021 Bond certificate will be issued for each maturity of the Series 2021 Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“**Direct Participants**”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation (“**DTCC**”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“**Indirect Participants**”). DTC has a Standard & Poor’s of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com.

Purchases of the Series 2021 Bonds under the DTC system must be made by or through Direct Participants which will receive a credit for the Series 2021 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2021 Bond (“**Beneficial Owner**”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2021 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2021 Bonds, except in the event that use of the book-entry system for the Series 2021 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2021 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be

requested by an authorized representative of DTC. The deposit of the Series 2021 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2021 Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2021 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2021 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2021 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2021 Bond documents. For example, Beneficial Owners of the Series 2021 Bonds may wish to ascertain that the nominee holding the Series 2021 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Bond Registrar and request that copies of the notices be provided directly to them.

Redemption notices are required to be sent to DTC. If less than all the Series 2021 Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to Series 2021 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Issuer and the Trustee as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Series 2021 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, principal and interest payments on the Series 2021 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from the Issuer or the Trustee on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

A Beneficial Owner will give notice to elect to have its Series 2021 Bonds purchased or tendered, through its Participant, to the Trustee, and will affect delivery of such Series 2021 Bonds by causing the Direct Participant to transfer the Participant's interest in the Series 2021 Bonds, on DTC's records, to the Trustee.

DTC may discontinue providing its services as depository with respect to the Series 2021 Bonds at any time by giving reasonable notice to the Issuer and the Trustee. Under such circumstances, if a successor depository is not obtained, Series 2021 Bond certificates are required to be printed and delivered. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a

successor securities depository). In that event, Series 2021 Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy or completeness thereof.

THE INFORMATION ABOVE DISCUSSING THE BOOK-ENTRY SYSTEM HAS BEEN FURNISHED BY DTC. NO REPRESENTATION IS MADE BY THE CORPORATION, THE BORROWER, THE SCHOOL OR THE UNDERWRITER AS TO THE COMPLETENESS OR ACCURACY OF SUCH INFORMATION OR AS TO THE ABSENCE OF MATERIAL ADVERSE CHANGES IN SUCH INFORMATION SUBSEQUENT TO THE DATE HEREOF. NO ATTEMPT HAS BEEN MADE BY THE CORPORATION, THE BORROWER, THE SCHOOL OR THE UNDERWRITER TO DETERMINE WHETHER DTC IS OR WILL BE FINANCIALLY OR OTHERWISE CAPABLE OF FULFILLING ITS OBLIGATIONS. THE CORPORATION HAS NO RESPONSIBILITY OR OBLIGATION TO DTC PARTICIPANTS, INDIRECT PARTICIPANTS OR BENEFICIAL OWNERS, OR THE PERSONS FOR WHICH THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2021 BONDS, OR FOR ANY PRINCIPAL OF, SINKING FUND INSTALLMENT, REDEMPTION PREMIUM, IF ANY, OR INTEREST PAYMENT THEREON.

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